CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

Α.

NAME OF PROJECT:

Capital Improvement Program

TYPE OF PROJECT:

N/A

CASE NUMBER:

N/A

APPLICANT:

City of Frederick 140 W Patrick Street

Frederick, MD; 21701

PHONE NUMBER:

(301) 600-1499

REVIEWED BY:

Zack Kershner/Gabrielle Dunn

DATE:

April 2, 2012

EXHIBITS:

CIP Wish List

Draft CIP

PROJECT PROPOSAL

Review of the draft CIP for 2013-2018 for consistency with the City's Comprehensive Plan and for recommendations on priority projects.

BACKGROUND INFORMATION

The Planning Commission's role in the CIP process is to annually submit a list of candidate projects to the Mayor and Board of Aldermen. In reviewing the CIP, the Commission should assess whether or not the proposed projects support or further the goals, objectives, and policies of the Comprehensive Plan.

STAFF COMMENTS & ANALYSIS

Staff has prepared a draft of the 2013-2018 CIP for the Commission's review. In addition to the draft, Staff has also prepared a "Wish List" that includes additional projects that City Staff have identified as a priority should funding be available.

STAFF RECOMMENDATION

Staff recommends that the Commission consider both the draft and the wish list and determine whether the proposed draft is consistent with the Comprehensive Plan and what projects on the "wish list" are the top priorities to the Commission.

To go to project report, click on project name from list below.

-	·
PRJ. NO.	PROJECT NAME
111111111111111111111111111111111111111	GENERAL FUND
	FACILITIES
110006	Joint Communications
120005	Conference Center
12000	ROADS
310004	Monocacy Blvd./Rt 15 Interchange
310304	Monocacy Blvd Central Section
320007	Opossumtown Pk,/TJ Dr. Intersection Imps.
320018	Christophers Crossing Corridor and Intersection impvt
	ROADSIDE INFRASTRUCTURE
340000	Streetlight Upgrades
340006	Streetlight Replacement - ARRA
340102	Sidewalk Retrofit
340401	New Traffic Signal Construction
340402	Traffic Light Conversion - ARRA
380001	Shared Use Path Plan Improvements
380006	Way Finding
	PARKS
410001	Carroll Creek Linear Park
410007	Riverside Center Park
410008	Walnut Ridge Park
410011	Avalori Park
410017	Clover Ridge Park
410024	Carrollton Park
411201	Hill Street Regional Park
411202	West Side Regional Park
450102	Grove Stadium Improvements
480157	Weinberg Center Improvements
	WATER AND SEWER FUND
	WATER
310304	Monocacy Blvd Central Section - Ph. II
360009	Water Distribution
360011	New Design Water Plant Expansion
360015	North Side Water Tank
360018	Water Loss Reduction
360022	Water Resource Project
360023	Ballenger Creek Interconnect
360025	Water and Sewer Security
360028	East Street Interchange Utilities
360029	Bowers/Whittier Connector Pipeline
360031	Fishing Creek Pipeline
360032 360601	SCADA System Watershed Land Acquisition
300001	Watersited Land Acquisition
	SEWER
370003	Shookstown Interceptor Sewer
370007	Wastewater Flowmeter Replacement
370008	Gas House Pk, WWTP Expansion & Imp'ls.
370009	Ballenger-McKinney WWTP
370010	Gas House Pk. WWTP Solids Proc. Rehab
370011	Gas House Pk. WWTP ENR Upgrade
370300	Inflow and Infiltration Reduction
4	
	AIRPORT FUND
	E 4 4 0 4 77

380051 FAA Part 77 380054 Airport Property Acquisitions
380062 Property Acquisition - Bowman's Farm
380067 Bailes Lane Demolition and Site Work

380068 Acquire/Obstruction Removal - Waffle House
380071 Acquisition and Demolition of Tulip Hill Houses
380077 Air Traffic Control Tower and Associated

PARKING FACILITIES FUND

380408 Site G Parking Garage
x 380413 Church Street Deck Rehab/Rebuild

STORM WATER FUND 350001 South Street Storm Drain 350020 Carroll Creek Flood Control Project Total Storm Water Fund:

X = New Project

TOTAL CIP:

	×																				×				
	480157 Tot	450102	411202	410017	410011	410007	410001	00000	380006	380001	340402	340401	340102	340006	340000		320018	320007	310304	310004	120005	110006		PRJ. NO.	
Debt Funding Special Assessments Impact Fees City Pay-As-You-Go	57 Weinberg Center Lights and Sound Total General Fund:	Grove Stadium Improvements	West Side Regional Park	Clover Ridge Park	Avalon Park	Riverside Center Park	Carroll Creek Linear Park	and a morning	Way Finding	Shared Use Path Plan Improvements	Traffic Light Conversion - ARRA	New Traffic Signal Construction	Sidewalk Retrofit	Streetlight Replacement - ARRA	Streetlight Upgrades	ROADSIDE INFRASTRUCTURE	Christophers Crossing Corridor and Intersection Impts	Opossumtown Pk./TJ Dr. Intersection Imps.	Monocacy Blvd Central Section	ROADS Monocacy Blvd./Rt 15 Interchange	Conference Center	Joint Communications	GENERAL FUND FACILITIES	PRJ. NO. : PROJECT NAME	
	180,000 128,470,560	5,252,500	19,339,000	438,000	384,000	1,570,530	34,769,000		640,000	1,065,009	164,732	1,429,420	693,296	455,494	3,488,147		278,000	4,069,313	51,799,119	1,455,000	0	ດດດ,ດດດ ເ		PROJECT	TOTAL
(91,217,199) (3,676,805) (843,000) 16,523,693	180,000 112,260,697	2,522,500	18,450,000	438,000	384,000	1,453,050	24,372,502		360,000	850,009	38,580	1,429,420	290,524	250,346	3,337,047		278,000	3,352,313	51,569,406	1,455,000	250,000	000,000		REQUIRED	TOTAL CITY
(47,517,199) (3,676,805) (843,000) 9,625,325	<u>0</u> 61,662,329	2,100,000	18,000,000	0	. 0	843,000	16,372,502		360,000	580,009	38,580	664,420	190,524	250,346	3,037,047		48,000	1,988,495	15,189,406	1,000,000	c	1,000,000	2000	TODATE	CITY SHARE
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0 0 0 1,571,712	1,571,712	> C	50,000	403,000	200	· C	0		0	90,000	;	30,000	200		· C	,	0	998,712	0	0	c		>	FY 14	СПТҮ
0 0 0 1,759,050	1,759,050	250,000	200,000	2	384,000	610,050	0		0	90,000	2	225,000	2000	o C	o C	,	0	. 0		0	c	> 0	>	FY 15	CITY SHARE ONLY
(13,200,000) 0 0 0 1,112,500	14,312,500	000,213	200,000	2	o c	o	. 0		0	0,000	2	30,000	2000	o C	o c	ò	c	· C	13,880,000	0	c	5 6	>	FY 16	
(22,500,000) 0 0 0 285,000	22,785,000	000,00	8000	o c	o C	o	00		0		o	22000	225 000	o c	> C	•	C	o c	22,500,000	0	c	> 0)	FY 17	
30,000 0	30.000	0	o c	o c	o	o C	00		0	· c	o c	30,000	3000	o	o c	>	c	o C	o	o 0	(> (>	FY 18	

x - New project

380051 380054 380062 380067 380068 380071 380077	370003 370007 370008 370009 370010 370011 370300 To t	PRJ. NO. 310304 360009 360011 360015 360022 360023 360025 360028 360029 360031 360031
AIRPORT FUND 51 FAA Part 77 54 Airport Property Acquisitions 62 Property Acquisition - Bowman's Farm 63 Bailes Lane Demolition and Site Work 64 Acquire/Obstruction Removal - Waffle House 75 Acquisition and Demolition of Tulip Hill Houses 77 Air Traffic Control Tower and Associated Total Airport Fund: Debt Funding Special Assessments Impact Fees Pay-As-You-Go	SEWER Shookstown Interceptor Sewer Wastewater Flowmeter Replacement Gas House Pk. WWTP Expansion & Imp'ts. Ballenger-McKinney WWTP Gas House Pk WWTP Solids Proc Rehab Gas House Pk WWTP ENR Upgrade Inflow and Infiltration Reduction Total Water and Sewer Fund: Debt Funding Special Assessments Impact Fees Pay-As-You-Go	PRJ. NO. : PROJECT NAME WATER AND SEWER FUND WATER WATER WATER 310304 Monocacy Blvd Central Section - Ph. II 360009 Water Distribution 360011 New Design Water Plant Expansion 360015 North Side Water Tank 360016 Water Loss Reduction 360021 Water Resource Project 360022 Ballenger Creek Interconnect 360028 East Street Interchange Utilities 360029 Bowers/Whittier Connector Pipeline 360031 Fishing Creek Pipeline 360032 SCADA System Watershed Land Acquisition
856,000 17,114,000 5,550,000 10,168,200 2,400,000 1,500,000 4,832,462 42,420,662	805,157 1,070,000 9,893,143 17,483,000 6,017,883 47,368,100 <u>5,591,837</u> 216,425,070	TOTAL PROJECT 8,714,000 13,431,350 52,250,000 15,165,275 13,103,160 2,612,322 220,000 220,946 4,486,782 13,580,000 500,000 762,115
12,000 1,263,000 71,000 129,228 31,000 21,000 0 1,527,228 0 0 0 1,527,228	805,157 1,070,000 9,877,649 17,483,000 3,029,270 27,689,980 <u>5,478,267</u> 192,115,914 (168,214,153) (2,786,840) 0 27,114,921	TOTAL CITY SHARE REQUIRED 8,714,000 13,428,133 52,250,000 2,150,000 15,165,275 12,973,255 2,612,322 220,000 220,946 4,486,782 13,580,000 500,000 381,878
12,000 1,263,000 71,000 18,228 31,000 14,000 0 1,409,228 1,409,228	898,000 320,000 20,373,551 17,483,000 0 4,978,267 133,585,475 (127,186,910) (2,490,735) 0 3,907,830	CITY SHARE APPROVED TO DATE 7,014,000 11,928,133 51,750,000 5,165,275 4,973,255 2,612,322 220,000 4,486,782 80,000 500,000 402,890
	(92,843) 550,000 (10,495,902) 0 3,029,270 27,889,980 500,000 23,630,439 (19,927,243) (296,105) 0 3,407,091	FY 13 0 0 500,000 0 1,000,000 0 (29,054) 0 1,000,000 0 (21,012)
7,000 0 0 7,000 0 0 0 0 0 0 0 0	200,000 200,000 0 0 0 0 0 24,200,000 (20,500,000) 0 0 0 0	CITY FY 14 0 500,000 0 2,000,000 1,000,000 8,000,000 0 0 112,500,000 0 0 0 12,500,000
44,000 44,000 0 44,000 0 0 0	2.000,000	EY 15 EY 15 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
39,000 39,000 0 0 0 0 0 0 0 0	0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	EY 16 1,100,000 500,000 0 2,000,000 0 0 0 0 0 0
28,000 28,000 0 28,000 0 0 0 0	2.600.000	EY 17 600,000 0 2,000,000 0 0 0 0
00000000000000	0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	FY 18 500,000 0 2,000,000 0 0 0 0 0

x - New project

TOTAL CIP:	STORM WATER FUND 350001 South Street Storm Drain 350020 Carroll Creek Flood Control Project Total Storm Water Fund: Debt Funding Special Assessments Impact Fees Pay-As-You-Go	380408 Site G Parking Garage 380413 Church Street Deck Rehab / Rebuild Total Parking Facilities Fund: Debt Funding Special Assessments Impact Fees Pay-As-You-Go	PRJ, NO. : PROJECT NAME
479,829,055	4,836,894 55,905,005 60,741,899	16,865,000 14,905,864 31,770,864	TOTAL PROJECT
365,356,035	4,836,894 <u>23,145,438</u> <u>27,982,332</u> (19,484,703) (383,000) <u>0</u> <u>8,114,629</u>	16,865,000 14,604,864 31,469,864 (30,470,864) 0 0 0 999,000	TOTAL CITY SHARE REQUIRED
221,630,228	836,894 21,895,438 22,732,332 (15,484,703) (383,000) 0 6,864,629	1,135,000 1,105,864 2,240,864 (1,240,864) 0 0 0 1,000,000	CITY SHARE APPROVED TO DATE
34,895,545	1.250,000 1.250,000 0 0 1.250,000	0 (125,000) (125,000) 0 0 0 0 (125,000)	FY 13
25,902,712	0000000	0 124,000 124,000 0 0 0 124,000	CITY FY 14
3,803,050	0000000	0 01 01 0 0 01 01	CITY SHARE ONLY FY 15
19,951,500	2,000,000 0 2,000,000 (2,000,000) 0 0	0 0 0 0 0 0	FY 16
56,643,000	2,000,000 0 2,000,000 (2,000,000) 0 0 0	15,730,000 13,500,000 29,230,000 (29,230,000) 0 0 0	FY 17
2,530,000	00000000		FY 18

x - New project

PRJ. NO.	PROJECT NAME
	GENERAL FUND
	<u>FACILITIES</u>
120001	Municipal Building Repairs
210009	New Police Headquarters
	ROADS
320008	E. Patrick/Monocacy Blvd. Intersection Imps
320014	Walter Martz Road Improvements
320015	Butterfly Lane Improvements
320016	Yellow Springs/Tuscan Dr Intersection Imps
320017	TJ Drive/Hayward Rd Roundabout
XXXXX	Butterfly Lane Widening
320234	East Street Enhancement
XXXXX	Christophers Crossing Corridor - Ft Detrick
XXXXX	Chistophers Crossing - Sanner Farm
XXXXX	Stadium Drive Sidewalk
	BRIDGES
330003	Old Camp Road Bridge
	ROADSIDE INFRASTRUCTURE
340002	Traffic Calming
340004	East Side Community Legacy Project
380004	Rails to Trails Program
	PARKS
410014	Willowbrook Park - Phase II
410021	Park Surveillance Cameras
410022	Rivermist Park
410026	Culler Lake Restoration
	WATER AND SEWER FUND
	WATER
320015	Butterfly Lane Improvements
360033	Lake Linganore
	AIRPORT FUND
380056	Airport Fencing and Security
380060	Purchase FCC Training Building
380064	Purchase Tom's Property
380073	Equipment Storage Building
380076	North East T-Hangars
380081	Taxiway H-East
380083	Airport Perimeter Road
380085	Corporate Hangar
XXXXXX	
XXXXXX	
XXXXXX	North County Easements
	· · · · · · · · · · · · · · · · · · ·
	STORM WATER FUND

STORM WATER FUND

320015 <u>Butterfly Lane Improvements</u>

Total Storm Water Fund:

TOTAL CIP:

WATER AND SEWER FUND WATER 320015 Butterfly Lane Improvements 360033 Lake Linganore Total Water and Sewer Fund: Debt Funding Special Assessments Impact Fees Pay-As-You-Go	410014 Willowbrook Park - Phase II 410021 Park Surveillance Cameras 410022 Rivermist Park 410026 Culler Lake Restoration Total General Fund: Debt Funding Special Assessments Impact Fees City Pay-As-You-Go	340002 Traffic Calming 340004 East Side Community Legacy Project 380004 Rails to Trails Program		PRJ. NO. PROJECT NAME GENERAL FUND FACILITIES 120001 Municipal Building Repairs 210009 New Police Headquarters
275,000 429,900 704,900	651,000 200,000 125,000 1,380,000 35,194,742	495,000 1,000,000 4,990,000	175,000 870,000 2,800,000 1,550,000 1,050,000 4,400,000 4,017,742 3,300,000 5,500,000 1,650,000	TOTAL PROJECT 600,000 91,000
275,000 429,900 704,900 0 0 0 704,900	651,000 200,000 125,000 <u>1.380,000</u> 33.272,035 0 (91,000) (125,000) 33,056,035	495,000 1,000,000 4,990,000	120,000 320,000 2,800,000 1,330,000 1,050,000 4,400,000 3,570,035 3,570,035 3,500,000 5,500,000 1,000,000	TOTAL CITY SHARE REQUIRED 600,000 91,000
2 <u>9,900</u> 2 <u>9,900</u> 0 0 29,900	0 0 0 1,306,035 0 (91,000) 1,215,035	495,000 0 0	0 0 0 0 150,000 0 570,035 0 0	CITY SHARE APPROVED TO DATE 0 91,000
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200,000 200,000 0 0 0 200,000	0 0 0 2,700,000 0 0 0 2,700,000	0 50,000 1,550,000	50,000 0 100,000 0 100,000 0 350,000	EY 14 600,000 0
0 <u>200,000</u> 200,000 0 0 0 200,000	0 200,000 0 0 5,630,000 0 0 0 5,630,000	0 50,000 2,000,000	0 300,000 580,000 850,000 650,000 300,000 200,000 500,000	CITY SHARE ONLY <u>FY 15</u> 0 0 0
275,000 <u>275,000</u> 0 0 0 0 0 0 275,000	25,000 0 1,380,000 19,815,000 0 0 19,815,000	0 450,000 1,440,000	320,000 2,500,000 750,000 0 3,750,000 1,200,000 3,000,000 5,000,000 0	FY 16
0 0 0 0 0 0 0	300,000 0 125,000 0 3,495,000 0 (125,000) 3,370,000	0 450,000 0	120,000 0 0 0 0 1,500,000 0 0 1,000,000	FY 17 0
0 0 0 0 0 0 0	326,000 0 0 326,000 0 0 0 326,000	000	0000000000	FY 18 0

TOTAL Wish List CIP:	Impact Fees Pay-As-You-Go	Special Assessments	Debt Funding	Total Storm Water Fund:	STORM WATER FUND 320015 Butterfly Lane Improvements	Pay-As-You-Go	Impact Fees	Special Assessments	Debt Funding	Total Airport Fund:	XXXXX North County Easements	XXXXX Airport Layout Plan Update	XXXXX Signage and Marking		380083 Airport Perimeter Road	380081 Taxiway H-East	380076 North East T-Hangars	380073 Equipment Storage Building	380064 Acquire Toms Property	380056 Airport Fencing and Security	PRJ. NO. PROJECT NAME	
59,534,178				462,000	<u>462,000</u>					23,172,536	100,000	150,000	462,536	900,000	3,000,000	4,275,000	14,000,000	135,000	50,000	100,000	PROJECT	TOTAL
51,671,935	0 0	0	(462,000)	462,000	462,000	233,000	10	0	(17,000,000)	17,233,000	10	0	0	0	3,000,000	56,000	14,000,000	135,000	40,000	2,000	REQUIRED	TOTAL CITY
1,377,935	10 0	0	0	10	10	42,000	0	0	0	42,000	10	0	0	0	0	0	0	0	40,000	2,000	TO DATE	CITY SHARE
1.875	0 0	0	0	10	10	1.875	0	0	0	1,875	10	1,875	0	0	0	0	0	0	0	0	FY13	
4,594,250	0 0	0	(52,000)	52,000	52,000	142,250	0	0	(1,500,000)	1,642,250	1,250	0	0		1,500,000	6,000	0	135,000	0	0	FY 14	CIT
12,940,000	10 0	0	(410,000)	410,000	410,000	50,000	0	0	(6,650,000)	6,700,000	10	0	0	0	1,500,000	50,000	5,150,000	0	0	0	FY 15	CITY SHARE ONLY
28,940,000	10 0	0	0	10	10	0	0	0	(8,850,000)	8,850,000	Ю	0	0	0	0	0	8,850,000	0	0		FY 16	Ϋ́
3,495,000	10 0	0	0	0	10	10	0	0	0	0	10	0	0	0	0	0	0	0	0	0	FY 17	
326,000	10 0	0	0	10	10	10	0	0	0	10	10	0	0	0	0	0	0	0	0	0	FY 18	

CITY OF FREDERICK PLANNING COMMISSION

PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

0

NAME OF PROJECT:

Golden Mile Small Area Plan

TYPE OF PROJECT:

PC Recommendation

CASE NUMBER:

PROPERTY OWNER:

n/a

ADDRESS:

_

APPLICANT: PHONE NUMBER:

n/a

PROPERTY

n/a

LOCATION:

REVIEWED BY:

DATE:

Matthew Davis, AICP///BT March 5, 2012

EXHIBITS:

Golden Mile Small Area Plan Draft

Provided to Planning Commission in December 2011

PROJECT PROPOSAL

The Golden Mile Small Area Plan has been drafted to guide future development along the Route 40 commercial corridor. This plan provides a blueprint that will offer a vision of how the community will look with respect to buildings, automobile and pedestrian traffic improvements and patterns and public spaces while creating a sense of place.

The Planning Commission is asked to provide comments and ask questions about the draft plan so that staff may respond, make any changes determined by the Commission and ultimately forward the Golden Mile Plan to the Mayor and Board of Alderman with a favorable recommendation.

BACKGROUND INFORMATION

In the City of Frederick 2010 Comprehensive Plan, several areas were identified as neighborhoods that would benefit from additional attention provided in a small area plan. The Mayor and Board of Alderman designated the Golden Mile area as the Planning Department's first priority.

This process kicked off in early 2010. Surveys were targeted to specific groups: business owners, property owners and residents. An online survey was also available to all interested parties.

Three workshops were held to provide education on the small area plan process, a synopsis of the survey results, obtain additional comments and begin to realize a vision for the Golden Mile that most stakeholders could support.

Staff took the results of those meetings and developed the draft plan. The Golden Mile Small Area Plan has been available for public review since December 2011. Since that time staff has presented a summary of the Plan to civic and neighborhood groups and the Golden Mile Alliance. The Alliance recently held a meeting of many of the major stakeholders on the Golden Mile to further explain the Plan and to solicit additional comments. The Golden Mile Alliance established a sub-committee to review the Plan and comments from that group will be forthcoming. To date, no specific comments from the general public have been received.

Staff will provide the Planning Commission with a summary of the Plan at its April 9th meeting and receive preliminary comments from the Commission. Prior to the May meeting, staff will provide all comments received to the Commission for their consideration and to hear any additional public testimony. It is anticipated that the Commission will make a recommendation to the Mayor and Board at that meeting. The Plan will then be brought before the Mayor and Board during both workshop and public hearing meetings, providing another opportunity for the public to comment on the Golden Mile Small Area Plan.

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

D

NAME OF PROJECT: TYPE OF PROJECT:

State Farm Mutual Automobile Insurance Company Combined Forest Stand Delineation/Preliminary Forest

Conservation Plan

CASE NUMBER:

PC11-808FSCB

PROPERTY OWNER:

State Farm Mutual Automobile Insurance Company

ADDRESS:

1 State Farm Drive. Frederick, MD 21701

DEVELOPER:

State Farm Mutual Automobile Insurance Company

ADDRESS:

1 State Farm Plaza, D3

Bloomington, Illinois 61710

PHONE NUMBER:

703-766-7276

APPLICANT:

Mr. Fran Zeller

Harris, Smariga, & Assoc., Inc.

ADDRESS:

125 South Carroll Street, Suite 100

Frederick, MD 21701

PHONE NUMBER:

(301) 662-4488

PROPERTY

LOCATION:

1 State Farm Drive

South Side of Monocacy Boulevard

REVIEWED BY:

Jeffrey D. Love

DATE:

April 2, 2012

PROJECT PROPOSAL

The Applicant is requesting approval of a combined forest stand delineation/preliminary forest conservation plan associated with the disturbance of 4.11 acres for the expansion of a parking lot on the State Farm campus. The parking lot expansion qualifies for, and is being processed as an administrative, staff level final site plan (STF11-809FSI) in accordance with Section 309.

BACKGROUND INFORMATION

PRIOR CASES	Case Number & Date of Ap	oproval
Zoning Map Amendment	N/A	
Master Plan	N/A	
Preliminary Subdivision Plan	N/A	
Final Subdivision Plan	Plat Book 40 Page 197	
Final Site Plan	STF11-809FSI	TBD
Forest Stand Delineation	PC11-808FSCB	Tonight's Case
Preliminary Forest Conservation Plan	PC11-808FSCB	Tonight's Case
Zoning Board of Appeals Cases	N/A	

DEVELOPMENT CHARACTERISTICS	Area		
Total Lot Area	93.796	5 acres	
Property Zoning	MU1		
Open Space (HOA)	N/A		
Park Land Dedication	 N/A		

ENVIRONMENTAL CHARACTERISTICS	Area
Disturbed Lot Area	4.11 acres
Impervious Surface Ratio	N/A
Floodplain on Site	None
Disturbed Floodplain	N/A
Nontidal Wetlands on Site	None
Disturbed Wetlands	N/A

LEGAL AGREEMENTS	
Type of Agreement	Date Submitted & Approved by Office of Legal Services
Forest Conservation Agreements	To be reviewed in conjunction with the final forest conservation plan.

NAC	
NAC#	4
Meeting Date	January 12, 2012
Number of Attendees	15
Comments	None.

STAFF COMMENTS & ANALYSIS

The State Farm campus is located on Monocacy Blvd north of MD 26. The site is 93.796 acres in size and the total afforestation/forest conservation requirement for the entire site would be equivalent to 14.07 acres.

However, the Department's policy for large parcels which were developed prior to the adoption of forest conservation requirements is to require that the Applicant mitigate the area being disturbed by the current application. Based on a disturbed area of 4.11 acres for this project proposal, the Applicant must provide mitigation in the amount of 0.617 acres. Mitigation is to be met through the placement of an easement over existing forest onsite.

Future development or redevelopment of the site will require additional mitigation at such time that it is proposed. The Applicant has conveyed to Staff that ultimate development plans for the property are uncertain and that they do not wish to encumber the property with extensive easements if it can be avoided at this time. There is approximately 10.2 acres of existing forest on the site and based on the overall mitigation requirement, only 3.87 additional acres of afforestation would be needed to meet the entire requirement onsite. This would result in over 14 acres of forest, a meaningful amount of land area to create viable forest with numerous environmental benefits.

The challenge that the City faces in successfully implementing the forest conservation regulations on sites such as this is that the development has already limited the amount of land available and location for future plantings. An incremental approach often results in request for fee in lieu of payments which is not the top priority. As noted above, at such time that the Applicant wishes to conduct additional development on this site, Staff will continue to advocate for onsite plantings and against fee in lieu of payment without proper justification. As such, the Applicant should be mindful of planning future development with onsite forest conservation requirements taken into consideration.

STAFF RECOMMENDATION

Staff recommends approval of the combined forest stand delineation/preliminary forest conservation plan PC11-808FSCB with the following condition of approval:

To be met in less than 60 days:

1. Revise the case number in the title block to PC11-808FSCB.

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

E

NAME OF PROJECT:

WHITTIER PND, SECTION 10 FINAL SITE PLAN- REVISION

TYPE OF PROJECT: CASE NUMBER:

PC12-128FSI

PROPERTY OWNER:

Ausherman Development Corporation

ADDRESS:

7420 Hayward Road, Suite 203

APPLICANT: ADDRESS:

Fox and Associates, Inc. 82 Wormans Mill Court

PHONE NUMBER:

301.695.0880

PROPERTY

LOCATION:

Located on the south side of West Greenleaf Drive

REVIEWED BY:

Brandon Mark

DATE:

April 2, 2012

EXHIBITS:

Architectural Elevations

PROJECT PROPOSAL

The proposal is a revision to the final site plan for Section 10 of the Whittier PND which is the final section to be developed. The project consists of five (5) multifamily buildings containing 12 units each, with 70 units total.

BACKGROUND INFORMATION

This proposal was previously approved by the Planning Commission on August 9, 2004, however, expired and was reapproved on March 14, 2011 under the 1986 Zoning Ordinance. The Applicant is requesting approval to revise the plan to modify the building height from the previously approved 35 feet to 49 feet, as well as to decrease the building footprint by approximately 13-14%. There will be no change in the number of units or number of floors proposed. The requested revision is a result in the change of building design since the original approval in 2004.

This project is exempt from complying with the design standards of the LMC including setbacks, impervious surface ratio, parking, etc. per Table 910-1 as the presence of governmental constraints (i.e. water allocation) prevented the entire project from being completed. Therefore the project was reviewed by using the 1986 Zoning Ordinance, however, Section 910(b)(6) of the LMC does require that all new applications submitted

after August 15, 2005 comply with the procedural requirements of Article 3 and the submittal requirements of Article 11.

PRIOR CASES	Case Number & Date of Approval
Annexation	10-88 June 9, 1988
Zoning Map Amendment	N/A
Sketch Plan	N/A
Master Plan	PC03-160PND
Preliminary Subdivision Plan	PC03-161PSU
Final Subdivision Plan	N/A
Final Site Plan	PC04-318FSI (expired), PC10-53FSI
Forest Stand Delineation	Exempt
Preliminary Forest Conservation Plan	Exempt
Zoning Board of Appeals Cases	N/A
Archeological Assessment	N/A

DEVELOPMENT CHARACTERISTICS	Area
Total Lot Area	5.03ac
Property Zoning	R4
Number & Type of Units	5 Buildings, 70 Condominium Units
Roadway Dedication	N/A
Open Space (HOA)	N/A .
Park Land Dedication	N/A

ENVIRONMNETAL CHARACTERISTICS	Area
Disturbed Lot Area	175,865sf
Impervious Surface Ratio	93903sf or 45%
Floodplain on Site	No
Disturbed Floodplain	None
Nontidal Wetlands on Site	None
Disturbed Wetlands	None
MDE Permit Required	No

FACILITIES AND SERV		TBOW	I Assess Description
Road Name	Comprehensive Plan Classification	ROW	Access Provision
West Greenleaf Drive	N/A	60'	N/A

SCHOOLS (existing	feeder situation)			
		Equated		Additional
	Name	Enrollment	Capacity	Enrollment
Elementary School	Whittier Elementary	731	671	2.8

Middle School	West Frederick	826	955	1.4
High School	Frederick	1378	1603	1.4

FIRE & RESCUE	
Distance to Fire Service	Independent Hose Company – 1.9 miles
Distance to Ambulance Service	Independent Hose Company - 1.9 miles
Approved by City Fire Engineer	3/17/10

LEGAL AGREEMENTS	
Type of Agreement	Date Submitted & Approved by Office of Legal
	Services
Easement Agreements	N/A
Forest Conservation	N/A
Agreements	

			ION DEMEN	
ARCHITECTU		OKRAN DES	IGN REVIEV	
Applicability	N/A			
Classification				
Building Type	Class	Design Elements Required	Design Elements Met	Design Elements Utilized
Modifications				
Remarks				

NAC	
NAC#	1
Meeting Date	March 3, 2010
Number of Attendees	Six attendees
Comments	Questions regarding the operation of condominiums vs apartments.

APFO		
TYPE	APPLICABILITY	ISSUED (Y/N)
CAPF-WL	Exempt, Section 4-6(b)	
CAPF-SL	Exempt, Section 4-6(b)	
CAPF-R	Exempt, Section 4-6(b)	
CAPF-SCH	Exempt, Section 4-6(b)	

STAFF COMMENTS & ANALYSIS

LAND USE

Per Section 16.10 of the 1986 Zoning Ordinance, the Planning Commission has discretion to reduce lot areas, widths, and yards and increase building heights within Planned Neighborhood Developments (PND). The proposed request to modify the building height from 35' to 49' is before the Commission at the final site plan stage because the building height was not specified at the time of master plan approval.

At the time that the master plan was approved, the Whittier PND was zoned R3, Medium Density Residential. The maximum height in the R3 district at that time was 40' for permitted residential uses; however, multi-family units were not permitted in the R3 zoning district except in accordance with the PND provisions. Per Section 16.09 of the 1986 Ordinance, any structure which exceeded the building height normally applicable in the zoning district in which it is located had to be setback from any property that was not part of the planned neighborhood a distance equal to twice its proposed height, or 90 feet, whichever is greater. To the east, the subject property abuts open space in the PND, however to the south and the west, the property abuts residential properties located in the County and as such, must be setback at least 98' from those properties. At the closest point, no building is less than 100' from either property line.

The Applicant has indicated that the request to increase the building heights in the development results from the desire to construct a product that has 9' ceiling within the units while still maintain a pitched roof.

The Applicant has also proposed changes to the seating area/amenity between Buildings 1 and 2 due to the grading of the area and improved access to the buildings.

PARKING AND ACCESS MANAGEMENT

Per Section 14.04 of the 1986 Zoning Ordinance, multifamily buildings require 2 parking spaces per 2 bedroom units and 0.5 spaces for every room over two rooms. The proposed number of units is 70, requiring a total of 140 parking spaces. The Applicant has provided 143 parking spaces.

The site contains one point of access from West Greenleaf Drive. During the March 14, 2011 Planning Commission public hearing, the Applicant requesting and received approval for two modifications regarding the access to the site:

	,		
		•	

- Per Section 13.02 of the 1986 Ordinance, all parking areas of more than 100 parking spaces shall have at least two access points on a public street. The Planning Commission granted approval to the entrance modification because of the shape of the subject parcel and the surrounding open space that does not allow for more than one entrance to the property.
- The second modification granted was is in regards to Section 14.12(4) of the 1986 Ordinance, in which no residential parking space shall be located more than 600 feet from a public street Right of Way (ROW). Again, this modification was approved due to the linear shape and the configuration of the development proposal.

There are no changes to the conditions or design of the parking areas and access points associated with this plan and as such, no further action is required by the Planning Commission with regards to the previous approvals.

LANDSCAPING

Per Section 11.05(1)(a) the project is required to plant one tree on the property for each 3,000sf of lot. The property is 5.03 acres (219,107sf) requiring a total of 73 trees to be planted on the property. The Applicant has provided 129 trees.

Per Section 11.05(3)(a) the project is required to provide level I screen between the residential use and adjacent traffic areas by planting one tree for every 30 feet on center. The site contains 300ft of frontage on West Greenleaf creating the necessity to plant 10 trees as a buffer. The Applicant has planted the 10 trees, however due to constraints created by the entrance to the site, some trees are not planted at the proper intervals. During the March 14, 2011 public hearing the Planning Commission granted approval of a modification from the spacing requirements of Section 11.05(3)(a).

Per Section 11.05(4) in all residential districts 10% of the total parking area must be landscaped with interior plantings. The Applicant has indicated that total parking area is 60,640sf and comprised of 9,485sf of landscaping making up 15.6% of the parking lot.

Lastly, Section 11.05(5) requires parking lots of 10 or more spaces adjacent to residential districts be screened with level I or level II screening. The Applicant has proposed screening consistent with the Level I requirements consisting of shrubs, evergreens and deciduous trees.

Once again, there are no changes to the design of the landscaping associated with this plan and as such, no further action is required by the Planning Commission with regards to the previous approvals.

TRAFFIC ANALYSIS

The existing intersection of West Greenleaf Drive and Rocky Springs Road is currently closed to through traffic at the request of the County who maintains jurisdiction over Rocky Springs Road. After the construction of the entrance by the Applicant, it was determined by the County that the connection was unsafe due to the topography of Rocky Springs and the resulting sight distance available at that intersection. The City and County have been working on a solution to the connection consisting of eliminating the topographical challenges, thereby improving the sight distance. The approvals for

the road construction permits are imminent and it is anticipated that construction will be complete by the end of summer.

It should be noted that upon constructing the connection of West Greenleaf Drive and Rocky Springs Road, the intersection was closed prior to the Applicant installing street signs a stop sign. The Applicant has agreed to install the street signs and stop signs prior to the completion of the improvements to Rocky Springs Road.

UTILITIES

Staff has worked closely with the Applicant and the Department of Public Works (DPW) to address the trash collection for this section of the community. The Applicant has indicated that one large trash can (96 gal) will be provided per unit which will be enclosed within trash corrals as shown on the plan. The DPW has indicated that a minimum of 5,144 square foot corrals must be provided to accommodate all 70 cans. The Applicant has met this request by adding an additional trash coral to provide adequate space to accommodate 70 trash bins throughout the site.

Once again, there are no changes to the plans for trash collection and as such, no further action is required by the Planning Commission with regards to the previous approvals

STAFF RECOMMENDATION

Staff recommends unconditional approval of **Final Site Plan PC12-128FSI** for Whittier PND Section 10.

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

F

NAME OF PROJECT:

Nursing Home/Domiciliary Care, Adult Living Facility

TYPE OF PROJECT:

Text Amendment

CASE NUMBER:

PC12-110ZTA

APPLICANT:

Bruce Dean, Linowes and Blocher, LLP

ADDRESS:

8 West 3rd Street Frederick, MD. 21702

PHONE NUMBER:

(301) 620-1175

REVIEWED BY:

Gabrielle Dunn

DATE:

April 2, 2012

EXHIBITS:

Application Materials

Draft Ordinance

PC Resolution of Recommendation

PROJECT PROPOSAL

The Applicant is proposing amendments to Section 404, Table 404-1 of the Land Management Code (LMC) entitled, the *Use Matrix*, and Section 841 of the LMC entitled, *Nursing Home/Domiciliary Care/Adult Living Facility* in order to establish nursing homes/domiciliary care/adult living facilities as conditional uses in the Manufacturing/Office (MO) zoning district.

BACKGROUND INFORMATION

Currently, nursing homes/domiciliary care/adult living facilities are a conditional use in the RO, R4, R6, R8, R12, R20, NC, DB, DR, and MXE districts and as such, require approval from the Zoning Board of Appeals (ZBA). The criteria by which the ZBA must evaluate such proposals are outlined in Section 841 of the LMC. The subject use is considered permitted "by right" in the IST district.

With regards to the Mixed Use (MU-1 and MU-2) districts, there is currently a discrepancy in the code in that the Use Matrix indicates that within those districts it is a "mixed use conditional use," however, Section 841 indicates that in those same districts it is permitted "by right."

STAFF COMMENTS & ANALYSIS

Manufacturing/Office (MO) District

Per Section 401, the MO zoning district is established in order to provide a park-like setting for a community of industries which have no nuisance factors. According to the purpose statement, that while there is leeway in the types of industries permitted, the appearance and means of operation within the district should be scrutinized and compared to the performance standards of the Code. In evaluating the development criteria of the LMC, construction in the MO district is subject to the standard bulk and dimensional criteria outlined in Section 405, Table 405-1, including minimum lot size, minimum lot frontage, minimum setbacks, maximum heights, and maximum impervious surface permitted. Section 405(c) provides further specifications unique to the MO district which include maximum building coverage, minimum landscaped area, screening requirements, and architectural review authority by the Planning Commission. These additional requirements assist in implementing the purpose and intent of the district as expressed in Section 401.

To assist the Commission in considering the proposed amendment, Staff has identified the following uses that are currently permitted in the MO district:

Permitted by Right Hotel, Motel and Tourist court Broadcasting/recording studio Electrical Systems Service Financial Services (bank, savings and loan, credit union Offices, Business and Professional Offices, Regional (bank, savings and loan, credit union, insurance) Appliances, Assembly, production Construction Equipment, Assembly Production Electronic Components Manufacturing and Processing Electronic Equipment Assembly Production Medical Laboratory Newspaper printing Laboratories and testing offices in conjunction with scientific /industrial research and development Printing Bulk Photo Processing, Blueprint Services Solar Energy Manufacturing Tools Industrial Machinery, Mechanical Equipment Conference Center Golf Course/Club Indoor Recreation Complex Park Public Safety (police/Fire/ambulance) facilities Schools, Public/Private Heliport/Helistop Agricultural Production Permitted by Conditional Use Permitted by Conditional Use General restaurant Telecommunications facilities	9	
Permitted by Conditional Use • Automobile filing station • Commercial use of historic structure • General restaurant	Permitted by Right	 Broadcasting/recording studio Electrical Systems Service Financial Services (bank, savings and loan, credit union Offices, Business and Professional Offices, Regional (bank, savings and loan, credit union, insurance) Appliances, Assembly, production Construction Equipment, Assembly Production Electronic Components Manufacturing and Processing Electronic Equipment Assembly Production Medical Laboratory Newspaper printing Laboratories and testing offices in conjunction with scientific /industrial research and development Printing Bulk Photo Processing, Blueprint Services Solar Energy Manufacturing Tools Industrial Machinery, Mechanical Equipment Conference Center Golf Course/Club Indoor Recreation Complex Park Public Safety (police/Fire/ambulance) facilities Schools, Public/Private Heliport/Helistop
General restaurant		1
	Conditional Use	
Telecommunications facilities		
		Telecommunications facilities

There are a variety of uses permitted in the MO district ranging from light industry/manufacturing to office as well as support services like hotels and conference centers which are critical to creating an employment oriented center. While the inclusion of a domiciliary care/nursing home/adult living facility in this list is a deviation from the general theme, Staff finds that it is not incompatible with regards to the primary focus of the MO district, which is to prevent the establishment of businesses and industries which create nuisances. In fact, as a conditional use, domiciliary care facilities are currently suitable even for residential zones where concerns regarding nuisances such as traffic generation, noise, etc. are traditionally more of a concern. The criteria for ZBA conditional use approval also requires that the architecture of the building be compatible with existing structures in the immediate area; a theme central to the MO provisions.

With regards to the distribution of MO land in the City, it is limited to the Ballenger Creek Center, a small area along Thomas Johnson Drive, and the recently annexed COPT/Thatcher property on the east side of Rt 15. Having limited areas of MO property to develop as future business centers, Staff has assessed the above uses to determine their permissibility in other districts so as to ensure that the proposed amendment would not limit future opportunities. In doing so, Staff has concluded that all of the other uses permitted in MO are also permitted in the general commercial (GC) or industrial districts (M1 and/or M2). In addition, the Mixed Use Employment Center (MXE) floating zone is a development option available for the creation of large-scale office parks/employment centers in the M1 and M2 zoning district.

Mixed Use Districts

As noted above, with the Applicant's proposal to amend the provisions regarding the MO district, Staff identified a discrepancy regarding nursing homes/domiciliary care/adult living facilities in the mixed use districts (MU-1 and MU-2). With two different standards for how these facilities should be handled in MU-1 and MU-2, (permitted by right or as a mixed use conditional use) Staff considered the purpose and intent of the MU districts and the procedural requirements associated with both. The mixed use districts are intended to create well-integrated communities with residential and nonresidential components that have a variety of housing types and densities as well as compatible and complimentary retail, office and employment uses; all of this being achieved through the master plan process.

Per Section 837, a "mixed use conditional use," is one that, because of its potential impacts, must be evaluated individually and specifically by the Planning Commission to ensure that it is complimentary to the community and does not adversely affect public health, safety, and welfare. As such, the Planning Commission must consider the specific use during the master plan process and make certain findings regarding its appropriateness before approving it—similar to the manner in which the ZBA approves a conditional use. As a use permitted "by right," the Planning Commission would not have to approve a proposed nursing home/domiciliary care/adult living facility as part of the master plan, nor would specific findings (beyond those generally applicable to site plan approval) have to be made regarding potential impacts or benefits. In summary, the level of scrutiny is much higher as a mixed use conditional use as opposed to a permitted use.

In order to determine what level of scrutiny is appropriate for such facilities, Staff evaluated the 1986 Zoning Ordinance for comparison. Under the 1986 Ordinance, domiciliary care facilities and nursing homes were permitted only with approval by the

ZBA as a special exception, the equivalent to a conditional use under the LMC. Under those regulations, there were no mixed use districts however, only more strictly conceived Euclidean zoning districts, and therefore, the perceived impacts may have been much greater. A more appropriate comparison is the placement of such facilities in a planned neighborhood development, which like the MU districts today, would have incorporated residential and nonresidential components as well as a variety of living alternatives. Under the PND provisions of the 1986 Ordinance, domiciliary care facilities were permitted in specially designed or thematically planned neighborhoods on the basis of one unit per 250 square feet of lot area and only with the Planning Commission's expressed approval.

Based on the above, Staff has concluded that it is most appropriate to revise Section 841 to clarify that nursing homes/domiciliary care/adult living facilities are permitted as a mixed use conditional use in the MU district and not "by right." This is most consistent with the intent of the 1986 Zoning Ordinance and the precedent set in the LMC by establishing these uses as conditional uses in all zoning districts except IST, which inherently requires a case-by-case analysis for impacts.

2010 Comprehensive Plan

With regards to the Comprehensive Plan, Staff finds that the proposed amendment is consistent with the following goals and implementation strategies in addition to those stated in the Applicant's justification statement.

 Land Use Policy 1: Encourage development to be compatible with the character of existing or planned development in the vicinity.

As referenced above as a conditional use, the ZBA will be evaluating any such proposal for compatibility, creation of nuisances, etc. as part of the approval process. This allows for a case-by-case review of a proposal within the context of the surrounding community.

 Land Use Policy 3: Allow land uses that build upon regional and local economic assets.

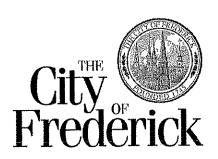
The primary medical care provider, Frederick Memorial Hospital, for Frederick County is located within the City and is supported by a variety of other healthcare providers concentrated in areas like Thomas Johnson Drive. As such, increasing the opportunities for nursing homes/domically care facilities builds upon those assets currently already located in the City.

Economic Development Policy 2: Maintain a diverse industry mix.

Increasing the opportunities for these types of facilities also increases employment opportunities as well as the need for support industries.

STAFF RECOMMENDATION

Staff supports a positive recommendation from the Planning Commission to the Mayor and Board of Aldermen for the amendments to Section 404, Table 404-1 and Section 841 as proposed.



For Official	Use Only	
PC Case Number:		
Hearing Date:		
DRC Date:		
Text Amendment Fee:	\$	
\$4,400.00		
Date Paid:		

Planning Department * 140 W. Patrick Street * Frederick, Maryland 21701 * 301.600.1499

APPLICATION FOR LAND MANAGEMENT CODE TEXT AMENDMENT

Please legibly print or type the following Land Management Code Text Amendment Application in its entirety. Incomplete applications will not be accepted. Submit the application, along with fee, and twenty eight (28) copies of the application and support documentation on or before 3:00 p.m. on the application deadline date.

OWNER INFORMATION
Name: Bruce N. Dean
Firm/Company: Linowes and Blocher LLP
Address: 8 West Third Street, Frederick, Maryland 21702
Phone: 301-620-1175 email: bdean@linowes-law.com
REPRESENTED BY – OWNER'S AFFIDAVIT MUST BE SUBMITTED WITH APPLICATION.
Name: SAME AS ABOVE
Firm/Company:
Address:
Phone: email:
All correspondence will be sent to the applicant. If the owner also wishes to receive a copy, please check box:
ORDINANCE BEING CHANGED
LMC Section No: 841 and Table 404-1 Use Matrix
Text:
See attachments

Quality Planning for The City of Frederick dr-Imc-text-amend.doc

See attachments
I hereby attest that the information provided on and attached to this application is complete and correct. This application must be accompanied by a filing fee.
Signature of Applicant Bruce N. Dean February 27, 2012 Date Application may be made by any citizen or official or agency of the City, per Section 306(c) of the LMC.
Required Attachments:
A. Statement to explain or support the requested amendment.
See attached justification statement

Proposed Amendment:

15 16

Sec. 841 NURSING HOME/ DOMICILIARY CARE/ ADULT LIVING FACILITY

Nursing homes, domiciliary care, and adult living facilities are allowed as a permitted principal use in MU and IST districts, and as a conditional use in RO, R4, R6, R8, R12, R16, R20, NC, DB, DR, MO, AND MXE districts provided that all of the following conditions can be met:

- (a) The applicant provides guarantees as deemed appropriate by the Zoning Board of Appeals that the facility will not adversely effect the character of any existing residential neighborhood nor influence the future development of a planned residential area because of the size or appearance of the building, increased traffic, noise, or other characteristic of the use which may be out of character with residential use. All buildings must be architecturally compatible with existing structure in the immediate area.
- (b) The applicant must obtain all required state approvals and licenses prior to the Board's approval of the use.
- (c) The site of the proposed use must be adequately protected from noise, traffic, air pollution or other potential hazards to the residents of the facility.
- (d) A site plan with information required by Section 309 must be provided for the Board's review. This plan must show the proposed facility and all future expansions.
- (e) The following density limitations shall apply:

Table 841-1 Nursing Home/Domiciliary Care/ Adult Living Density

R4 and R6	500 sq. feet of lot area per bed
R8 and R12	400 sq. feet of lot area per bed
All other R, NC, DB, DR, MO, and	300 sq. feet of lot area per bed
MXE districts	

Nursing Home/Comiciliary Care/Adult Living Facility	~
	RC
С	RO
С	R4
С	R6
C	R8
C	R12
C	R16
C	R20
	РВ
C	NC
	GC
Ю	МО
	M1
	M2
a	DB
С	DR
	DBO
Z	MU
C	MXE
סי	IST
	PRK
1230 1250 6520	LBCS Function
*	LBCS Structure
623110 623111 623112 623312 623311	NAICS

P = permitted by right C = conditional use

M = Mixed-Use conditional use

A = accessory use T = temporary use

S = shopping center use only

Application for Text Amendment to City of Frederick Land Management Code Table 404-1 Use Matrix and Section 841 Nursing Home/Domiciliary Care/Adult Living Facility Justification Statement

A. Introduction and Background.

The Applicant, Bruce N. Dean, is a citizen and property owner within the City of Frederick and is therefore qualified to apply for a text amendment under Section 306(c)(1) of the Land Management Code ("LMC") of the City of Frederick. Mr. Dean is applying on behalf of his client, 101 Development Group, LLC, a wholly owned subsidiary of Genesis HealthCare LLC ("Genesis"). Genesis is one of the nation's largest long-term care and rehabilitation therapy providers and operates more than 200 Skilled Nursing Centers and Assisted/Senior Living Communities in 13 eastern states between Maine and North Carolina.

Genesis currently operates a skilled nursing center in the City of Frederick known as "College View Center" which is located on Toll House Avenue near Frederick Memorial Hospital ("FMH") and Hood College. College View Center currently has the capacity to care for up to 109 patients and residents. It employs approximately 140 healthcare workers and center administrators, who staff the Center on a 24 hour per day basis, working 3 shifts. Nationwide, Genesis employs over 47,000 people dedicated to the delivery of quality health care to the residents and patients in its centers. The Genesis Rehabilitation Services division also provides contract therapy to over 1,100 health care providers in 28 states and the District of Columbia.

The site where College View Center is located is owned by FMH. The current facility is more than 50 years old and provides a standard of care which is necessarily compromised by the substandard facility in which the Center is located. Genesis is seeking to relocate and expand College View Center into a state of the art skilled nursing facility within the boundaries of the City of Frederick if possible. The proposed expansion would permit Genesis to provide its patients and residents with the care required by 21st Century medical advancements and to greatly enhance the quality of life of these patients and residents. In Genesis' search throughout the City of Frederick for a site to relocate the College View Center, it has found an excellent candidate site adjacent to the Frederick News Post corporate headquarters along Ballenger Center Drive south of I70. However, this site is zoned "MO – Manufacturing/Office". Nursing Homes such as College View Center are currently not permitted in the MO zoning district.

Nursing Homes/Domiciliary Care/Adult Living Facilities, which are grouped together by the LMC, are currently permitted as "Conditional Uses" (requiring Zoning Board of Appeals ("BZA") approval) within the RO, R4, R6, R8, R12, R16, R20, NC, DB, DR, MU and MXE zoning districts, and are only permitted by right in the IST zone. Genesis proposes to amend the LMC to add the MO zoning district to the districts in which Nursing Homes/Domiciliary Care/Adult Living Facilities are permitted as a Conditional Use.

B. Justification.

Pursuant to Section 306(b)(4) of the LMC, a text amendment should implement the policies of the comprehensive plan and be consistent with existing regulations. Genesis believes the proposed text amendment meets both of these criteria, as follows:

1. Implementing the Comprehensive Plan.

The City of Frederick adopted an update to its comprehensive plan in November of 2009, which is referenced as the "2010 Comprehensive Plan". In Chapter One of the 2010 Comprehensive Plan, it states that "[t]he Comprehensive Plan is a guide for the location, character and extent of proposed public and private development in the City of Frederick, Maryland. The Comprehensive Plan's policies and recommendations will be implemented over time through many distinct decisions including capital improvements, rezoning, text amendments, and changes to city codes as well as other documents." (emphasis added). It is thus clear that the 2010 Comprehensive Plan anticipates the need for text amendments to the LMC to implement its policies and recommendations.

Among the policies and recommendations of the 2010 Comprehensive Plan are to balance residential and employment growth and to improve and enhance the quality of life for residents. **CP pg 6.** How does the 2010 Comprehensive Plan accomplish this as it relates to employment areas, such as those zoned MO? Among other things, the Plan states that:

"stakeholders expressed the need increase the number and variety of local jobs in order to diversify Frederick's employment base beyond the predominant commercial uses and government jobs. To meet these needs, the City of Frederick must continue to maintain an adequate supply of non-residentially zoned land and to provide incentives that accommodate office, emerging technologies, and other high quality employment. Allowing a mix of land uses at a variety of locations will improve opportunities to accommodate the City's growth." CP pg. 18

It is our contention that allowing nursing homes in the MO zoning district will further these goals without compromising the City's supply of employment ground. First, nursing homes are employment centers as much or more than they are residential areas. A permanent staff of over 100 employees, with around the clock staffing, is necessary to operate most nursing homes. These facilities cost in the tens of millions of dollars to construct and add significantly to the tax base of the City. The employees tend to do a preponderance of their shopping in nearby commercial districts. Many of the jobs at advanced skilled nursing facilities are similar to those found in hospitals and often require professional certification. These facilities are a true mix between employment and residential use and thus promote the City's goal of balancing, and often mixing, the use of land between residential and employment uses. Finally, and importantly, because a skilled nursing facility requires the approval of a Certificate of Need from the State of Maryland Health Care Commission (the "MHCC"), the City is virtually guaranteed that these facilities will not proliferate and compromise the City's available supply of employment zoned land. There is no question that it is a specific goal of the 2010

Comprehensive Plan to "preserve high-quality future office lands primarily for office uses." **CP pg. 29.** It needs to be clear that the MHCC, prior to issuing a Certificate of Need for a skilled nursing facility in a community, will perform a strict assessment of the number of existing beds serving that community, in order to make sure such a facility is warranted. This has proven to be an effective limitation on the number of such facilities throughout the State of Maryland. This will also be an effective means of insuring that the goal of the 2010 Comprehensive Plan to preserve high quality office lands will not be diminished by the implementation of this proposed text amendment.

Finally, it is also important to note that LU Policy 1 of the 2010 Comprehensive Plan is to "Encourage development to be compatible with the character of existing or planned development in the vicinity." **CP pg. 30.** By insisting that nursing homes only be approved as conditional uses, by the BZA, the proposed text amendment insures that such proposed uses will first be reviewed by an independent agency which is entrusted by the City with making certain that incompatible uses do not sprout up in neighborhoods where they do not belong. Genesis would contend that, properly planned, a skilled nursing facility will be compatible with both residential and employment uses, and can serve as an effective bridge from one such use to another, or as a border between such uses. A good example of this is the assisted living and Alzheimer's facility in the Whittier neighborhood of the City of Frederick, where such facilities are an attractive and well-integrated part of the commercial area of a residential mixed use neighborhood.

2. Consistency with existing regulations.

In the LMC, unless zoned for Institutional use, all new nursing homes are governed by Section 841. This text amendment proposes no changes to the existing conditions on approval for a nursing home as found in Section 841. The conditions found in Section 841 are designed to adequately protect surrounding neighborhoods, especially residential ones, but also to give the BZA sufficient information with which to make an informed decision as to the suitability of the proposed use for the proposed site. The BZA will judge each applicant for a nursing home in an MO zone using the same criteria by which it judges nursing homes elsewhere in the City of Frederick, and there are simply no proposed changes which might make it easier for an applicant to locate in an MO zone as opposed to any other zoning district. Because the proposed text amendment makes no changes to Section 841 at all, other than to add the MO zoning district, we believe that this text amendment is thus clearly consistent with the LMC.

In addition, however, lands zoned MO are also protected by the performance standards found in Section 405(c) of the LMC. This section is intended to make sure that MO zoned properties are held to a higher standard than other employment areas (such as those zoned M1 or M2). Among the performance standards found in Section 405(c) are these:

- 100 foot setback from interstate highways or residential districts
- Maximum building coverage of 30%
- Minimum landscaped area of 20%
- Design standards, architectural standards and screening standards

This text amendment does not propose to change any of the performance standards found in Section 405(c) for the MO zone for nursing homes. When the Planning Commission is reviewing a site plan for a nursing home in an MO zone, it will have the exact same standards to implement for the nursing home as it would for an office or other permitted use. This will insure to the City of Frederick that MO properties are compatible and there will be no adverse effects on other uses in the MO zoned neighborhood. Therefore, we would contend that the text amendment is completely consistent with the existing regulations found in the LMC, for nursing homes in general, no matter what the zone in which they are located, but also for the MO zoning district and for the other uses permitted there.

C. Conclusion.

The proposed text amendment is necessary for Genesis to replace its existing facility and remain in the City of Frederick. The text amendment is consistent with and helps to implement the 2010 Comprehensive Plan. It is also consistent with the regulations found in the LMC for nursing homes and for the MO zoning district and does nothing to change any of the standards the BZA or Planning Commission will use to review and approve a proposed facility, it merely allows such a facility to locate within the MO zone if an applicant can meet these standards to the reasonable satisfaction of the BZA and the Planning Commission. Therefore, for all of these reasons, the proposed text amendment should be approved.

THE CITY OF FREDERICK MAYOR AND BOARD OF ALDERMEN

ORDINANCE NO:	
---------------	--

LEGISLATIVE HISTORY

PLANNING COMMISSION

PUBLIC HEARING:

April 9, 2012

RESOLUTION SUBMITTED

TO MAYOR & BOARD:

TBD

MAYOR & BOARD OF ALDERMEN

WORKSHOP:

TBD

PUBLIC HEARING:

TBD

AN ORDINANCE concerning

Nursing Home/Domiciliary Care/Adult Living

FOR the purpose of amending the use provisions of the Manufacturing/Office (MO) zoning district to allow Nursing Home/Domiciliary Care/Adult Living facilities as a conditional use and for the purpose of establishing Nursing Home/Domiciliary Care/Adult Living facilities as a mixed use conditional use in the MU districts.

BY amending

Section 404, Table 404-1 Appendix A, "Land Management Code" The Code of the City of Frederick, 1966 (as amended)

By repealing and reenacting with amendments

Section 841 Appendix A, "Land Management Code" The Code of the City of Frederick, 1966 (as amended)

SECTION 1. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that Section 404, Table 404-1 in Appendix A (Land Management Code) of The Code of the City of Frederick, 1966 (as amended), be amended by inserting a "P" into the Use Matrix as shown below:

						2	9]	0		()	()	•		2			80		E		K.
Use	RC	S	R4	R6	R8	RI	RI	R2(PB	NC	O.O.	MC	M	M 2	DB	DR	ga	ML	M	ISJ	PR
		С	С	С	С	С	С	С		C		<u>C</u>			C	С		M	С	P	

SECTION 2. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that Section 841 of the Land Management Code, Appendix A of The Code of The City of Frederick, 1966 (as amended), be repealed and reenacted with amendments to read as follows:

Sec. 841 NURSING HOME/ DOMICILIARY CARE/ ADULT LIVING FACILITY

Nursing homes, domiciliary care, and adult living facilities are allowed as a permitted principal use in [MU and] <u>the</u> IST districts, [and] as a conditional use in RO, R4, R6, R8, R12, R16, R20, NC, DB, DR, <u>MO</u>, AND MXE districts, <u>and as a mixed use conditional use in the MU districts</u> provided that all of the following conditions can be met:

- (a) The applicant provides guarantees as deemed appropriate by the Zoning Board of Appeals that the facility will not adversely [effect] affect the character of any existing residential neighborhood nor influence the future development of a planned residential area because of the size or appearance of the building, increased traffic, noise, or other characteristic of the use which may be out of character with residential use. All buildings must be architecturally compatible with existing structure in the immediate area.
- (b) The applicant must obtain all required state approvals and licenses prior to the Board's approval of the use.
- (c) The site of the proposed use must be adequately protected from noise, traffic, air pollution or other potential hazards to the residents of the facility.
- (d) A site plan with information required by Section 309 must be provided for the Board's review. This plan must show the proposed facility and all future expansions.
 - (d) The following density limitations shall apply:

Table 841-1 Nursing Home/Domiciliary Care/ Adult Living Density

R4 and R6	500 sq. feet of lot area per bed
R8 and R12	400 sq. feet of lot area per bed
All other R, NC, DB, DR, MO, MU	300 sq. feet of lot area per bed
and MXE districts	

SECTION 3. In the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

SECTION 4. This ordinance shall take effect on XXXX, 2012, and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

[Bold Brackets] indicate material deleted
Underlining indicates material added

APPROVED:

PASSED:

Randy McClement, Mayor Randy McClement President,
Board of Aldermen

Approved for Legal Sufficiency:

Legal Department

Randy McClement Mayor



Aldermen

Karen Lewis Young President Pro Tem

Michael C. O'Connor Shelley M. Aloi Carol L. Krimm Kelly M. Russell

April 9, 2012

Mayor McClement and Board of Aldermen 101 N Court Street Frederick, Maryland 21701

Re: Zoning Text Amendment PC12-110ZTA

Dear Mayor and Board of Aldermen,

On April 9, 2012, application PC12-110ZTA for an amendment to the Land Management Code pertaining to nursing homes/domiciliary care/adult living facilities was brought forth by the applicant for the Commission's consideration. The proposed amendment to Section 404, Table 404-1 and Section 841 of the LMC for the establishment of the use as a conditional use in the Manufacturing/Office (MO) zoning district and as a mixed use conditional use in the Mixed Use (MU-1 and MU-2) zoning districts was reviewed, discussion was held, and public comment requested.

After careful consideration, the Planning Commission voted 4-0 in favor of a positive recommendation to the Mayor and Board of Aldermen in the case of text amendment PC12-110ZTA. The Planning Commission appreciates the opportunity to make a recommendation on this request.

Thank you

Josh Bokee, Vice Chairman City of Frederick Planning Commission

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

G.

NAME OF PROJECT: TYPE OF PROJECT:

FAA Updates Text Amendment

CASE NUMBER:

PC12-121ZTA

APPLICANT:

City of Frederick Planning Department

ADDRESS:

140 W Patrick Street

Frederick, Maryland 21701

PHONE NUMBER:

(301) 600-1499

REVIEWED BY:

Gabrielle Dunn/Tim Davis

DATE:

April 2, 2012

EXHIBITS:

Application Materials

Draft Ordinance

PC Resolution of Recommendation

PROJECT PROPOSAL

The City is proposing amendments to Section 419, *Airport Overlay District*, Section 864, *Sign Regulations*, and Section 866, *Telecommunications Facilities* as they apply to the filing requirements for applications within the Airport Overlay (AO) District.

BACKGROUND INFORMATION

Through the implementation of the AO district requirements and in working on various projects which have the potential to impact operations at the Municipal Airport, Staff has identified a deficiency in the current requirements for new construction or alterations of structures. Specifically, that while the regulations currently require applicants to file with the Federal Aviation Administration (FAA), they are not required to file with the Maryland Aviation Administration (MAA) – a review authority in the State that also supplies funding for the Airport.

STAFF COMMENTS & ANALYSIS

The proposed amendments will ensure that all affected parties are notified of new construction/alterations that may impact the activities on and surrounding the City's Airport. In addition, the proposed amendments will also improve predictability from the perspective of the applicant as they will be aware of the requirement at the beginning of the process because it will be specifically articulated in the Code. Staff is proposing

language which mandate notification of the MAA in the case of site plan development in the AO, new signs over 8' in height in the AO, and telecommunications facilities.

2010 Comprehensive Plan

With regards to the Comprehensive Plan, Staff finds that the proposed amendments are consistent with the following goals and implementation strategies:

Land Use Policy 6: Improve City regulations in order to provide a user-friendly and predictable permitting process.

Clearly articulating where outside agency approval is also required ensures that applicants are aware and that additional time during the review process may be necessary to ade3quately obtain all approvals.

STAFF RECOMMENDATION

Staff supports a positive recommendation from the Planning Commission to the Mayor and Board of Aldermen for the amendments to Section 419, Airport Overlay District, Section 864, Sign Regulations, and Section 866, Telecommunications Facilities as they apply to the filing requirements for applications within the Airport Overlay (AO) District.

Section 866, Telecommunications Facilities

§866 (a)

(14) In accordance with FAA FAR Part 77 Regulations, FAA Form 7460-1, Notice of Proposed Construction or Alteration, The applicant shall file an FAA Form 7460-1 Notice of Proposed Construction or Alteration the applicant shall file with the Federal Aviation Administration and the Maryland Aviation Administration where the proposed telecommunications facility or telecommunications antennas is within three (3) miles of the Frederick Municipal Airport and as required by Federal Aviation Administration Regulation Part 77.13.

Section 419, Airport Overlay

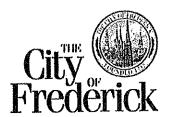
§419 (f) (3) Site Plan Requirements

- (3) In accordance with FAA FAR Part 77 Regulations, FAA Form 7460-1, Notice of Proposed Construction or [Alteration, shall] Alteration shall be submitted to the Federal Aviation Administration and the Maryland Aviation Administration whenever construction or alternation of a structure is proposed with the following characteristics:
 - A. Any construction or alternation of more than 200 feet in height above the ground (AGL) at its site.
 - B. Any construction or alternation of greater height than the Part 77 imaginary surface detailed under the Airspace and Safety Surfaces described below.
 - C. Any highway, railroad or other traverse way for mobile objects of a height which if adjusted upward 17 feet of an interstate highway that is part of the National System of Military and Interstate Highways where over-crossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a rail system, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of (3)(a) or (b) of this section.
 - D. When requested by the FAA, any construction or alternation that would be in an instrument approach area as defined in the FAA standards governing in instrument approach procedures.
 - E. Any construction or alteration on Airport property that is available for public use.
- (4) Each applicant who is required to notify the Administrator shall send one executed form set of FAA Form 7460-1 to the [appropriate FAA Office address shown on Form 7460-1)] Federal Aviation Administration, another set to the Maryland Aviation Administration, one set to the Manager, Frederick Municipal Airport, and one set to the City of Frederick Department of Planning for review. This notice must be submitted at least 30 days before the earlier of the following dates:
 - A. The date the proposed construction or alteration is to begin.
 - B. The date an application for a construction permit is to be filed.

Section 864, Sign Regulations

§864 (f)

(14) [-In]In accordance with FAA FAR Part 77 Regulations, FAA Form 7460-1, Notice of Proposed Construction or Alteration shall be submitted to the Federal Aviation Administration and the Maryland Aviation Administration[the Airport Overlay Zone], when applicants are proposing signs eight (8) feet or over in the Airport Overlay Zone. [must complete a FAA Form 7460.]



Karen Lewis Young President Pro Tem

Michael C. O'Connor Shelley M. Aloi Carol L. Krimm Kelly M. Russell

February 23, 2012

Meta Nash, Chairwoman City of Frederick Zoning Board of Appeals 140 West Patrick St Frederick, MD 21701

Subject: Zoning Text Amendment

Dear Chairwoman Nash,

I am writing you on behalf of Frederick Municipal Airport Commission to express our support of a Zoning Text Amendment to the Land Management Code. This very simple and brief amendment is in support of a request made by the Maryland Aviation Administration (MAA) to require developers of cellular telephone towers, and projects within the Airport Overlay Zone to submit their findings in the Obstruction Evaluation process; a form called the 7460-1 independently to the MAA for concurrence.

It is a common practice, and required already, by our ordinance to make the submission to the Federal Aviation Administration. The submission of the 7460-1 results to MAA will be, and have always been, addressed in a timely manner with little disruption to the project. By the addition of this requirement, the level of predictability of heightened.

The Airport Commission has supported staff zoning and land use change around the airport for the safety of all, not just our pilots. We wish our support to not be a burden, but that this amendment is approved for the betterment of the aviation community, as well as the residents of our community.

Sincerely,

Arthur Dee, Chairman

CC: Gabrielle Dunn, Division Manager Ashish Solanki, MAA

THE CITY OF FREDERICK MAYOR AND BOARD OF ALDERMEN

ORDINANCE NO:	
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LEGISLATIVE HISTORY

PLANNING COMMISSION

PUBLIC HEARING:

April 9, 2012

RESOLUTION SUBMITTED

TO MAYOR & BOARD:

TBD

MAYOR & BOARD OF ALDERMEN

WORKSHOP:

TBD

PUBLIC HEARING:

TBD

AN ORDINANCE concerning

Application filing requirements for development projects in the Airport Overlay (AO) zoning district.

BY repealing and reenacting, with amendments,

Section 419

Appendix A, "Land Management Code"

The Code of The City of Frederick, 1966 (as amended)

BY repealing and reenacting, with amendments,

Section 864

Appendix A, "Land Management Code"

The Code of The City of Frederick, 1966 (as amended)

BY repealing and reenacting, with amendments,

Section 866

Appendix A, "Land Management Code"

The Code of The City of Frederick, 1966 (as amended)

SECTION 1. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that Section 419 of the Land Management Code, Appendix A of The Code of The City of Frederick, 1966 (as amended), be repealed and reenacted, with amendments, as follows:

- · (a) ***
- (b) ***
- (c) ***
- (d) ***
- (e) ***
- (f)
- (1) ***
- (2) ***
- (3) In accordance with FAA FAR Part 77 Regulations, FAA Form 7460-1, Notice of Proposed Construction or [Alteration, shall] Alteration shall be submitted to the Federal Aviation Administration and the Maryland Aviation Administration whenever construction or alternation of a structure is proposed with the following characteristics:
 - A. Any construction or alternation of more than 200 feet in height above the ground (AGL) at its site.
 - B. Any construction or alternation of greater height than the Part 77 imaginary surface detailed under the Airspace and Safety Surfaces described below.
 - C. Any highway, railroad or other traverse way for mobile objects of a height which if adjusted upward 17 feet of an interstate highway that is part of the National System of Military and Interstate Highways where over-crossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a rail system, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of (3)(a) or (b) of this section.
 - D. When requested by the FAA, any construction or alternation that would be in an instrument approach area as defined in the FAA standards governing in instrument approach procedures.
 - E. Any construction or alteration on Airport property that is available for public use.
- (4) Each applicant who is required to notify the Administrator shall send one executed form set of FAA Form 7460-1 to the [appropriate FAA Office address shown on Form 7460-1)] Federal Aviation Administration, another set to the Maryland Aviation Administration, one set to the Manager, Frederick Municipal Airport, and one set to the City of Frederick

Department of Planning for review. This notice must be submitted at least 30 days before the earlier of the following dates:

	A.	The date the proposed construction or alteration is to begin.
	В.	The date an application for a construction permit is to be filed.
(g)	***	
(h)	***	
(i)	***	
(j)	, ** *	
THE C	ITY OF FRED	ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF DERICK that Section 864 of the Land Management Code, Appendix e City of Frederick, 1966 (as amended), be repealed and reenacted, s follows:
(a)	***	
(b)	***	
(c)	***	
(d)	***	
(e)	***	
(f)	Notice of Federal Administ	dance with FAA FAR Part 77 Regulations, FAA Form 7460-1, Proposed Construction or Alteration shall be submitted to the Aviation Administration and the Maryland Aviation ration[the Airport Overlay Zone], when applicants are proposing at (8) feet or over in the Airport Overlay Zone. [must complete at 7460.]
(h)	***	
(i)	***	
(j)	***	
(k)	***	
(I)	***	



SECTION 3. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that Section 866 of the Land Management Code, Appendix A of The Code of The City of Frederick, 1966 (as amended), be repealed and reenacted, with amendments, as follows:

(a)

(1) ***
(2) ***
(3) ***
(4) ***
(5) ***
(6) ***
(7) ***
(8) ***
(9) ***
(10) ***
(11) ***

(13) ***

(14) In accordance with FAA FAR Part 77 Regulations, FAA Form 7460-1,

Notice of Proposed Construction or Alteration, The applicant shall file an FAA Form 7460-1 Notice of Proposed Construction or Alteration] the applicant shall file with the Federal Aviation Administration and the Maryland Aviation Administration where the proposed telecommunications facility or telecommunications antennas is within three (3) miles of the Frederick Municipal Airport and as required by Federal Aviation Administration Regulation Part 77.13.

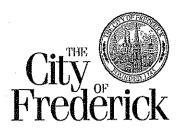
(b) ***

SECTION 4. In the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

SECTION 5. This ordinance shall take effect on XXXX and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

Note:	Note: Underlining indicates material added. [Bold Brackets] indicates material deleted. *** indicates no change.		
APPR	OVED:	PASSED:	
Randy	McClement, Mayor	Randy McClement President, Board of Aldermen	
Appro	ved for Legal Sufficiency:		
Legal	Department		

Randy McClement Mayor



Aldermen

Karen Lewis Young President Pro Tem

Michael C. O'Connor Shelley M. Aloi Carol L. Krimm Kelly M. Russell

April 9, 2012

Mayor McClement and Board of Aldermen 101 N Court Street Frederick, Maryland 21701

Re: Zoning Text Amendment PC12-121ZTA

Dear Mayor and Board of Aldermen,

On April 9, 2012, application PC12-121ZTA for amendments to the Land Management Code pertaining to the application filing requirements for development projects in the Airport Overlay (AO) district were brought forth by the Planning Department for the Commission's consideration. The proposed amendments to Section 419, Airport Overlay, Section 864, Sign Regulations, and Section 866, Telecommunications Facilities, was reviewed, discussion was held, and public comment requested.

After careful consideration, the Planning Commission voted 4-0 in favor of a positive recommendation to the Mayor and Board of Aldermen in the case of text amendment PC12-121ZTA. The Planning Commission appreciates the opportunity to make a recommendation on this request.

Thank you

Josh Bokee, Vice Chairman
City of Frederick Planning Commission

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

H.

NAME OF PROJECT:

Historic Preservation Overlay

TYPE OF PROJECT:

Text Amendment

CASE NUMBER:

PC12-145ZTA

APPLICANT:

City of Frederick, Planning Department

140 W Patrick Street Frederick, MD. 21701

PHONE NUMBER:

(301) 600-1499

REVIEWED BY:

Lisa Mroszczyk Murphy/Gabrielle Dunn

DATE:

April 2, 2012

EXHIBITS:

Draft Ordinance

Draft Resolution of Recommendation

PROJECT PROPOSAL

The Planning Department is proposing amendments to Section 423, *Historic Preservation Overlay (HPO) District*, and Section 1002, *Definitions* of the Land Management Code (LMC).

BACKGROUND INFORMATION

Since the LMC was adopted in 2005, Staff has brought forward several sets of amendments to correct inconsistencies, clarify ambiguities, and to overall, make improvements to the regulations. In general, this application continues to address outstanding issues. Specifically, these amendments pertain to the process for demolition and the treatment of sites and structures of unusual importance and to provide for expiration of approvals as well as update various definitions related to historic preservation.

STAFF COMMENTS & ANALYSIS

When Section 423 was revised in 2009, the section on Certificate of Approval expiration was dropped. This amendment reintroduces that section and includes other amendments to improve the Section's overall usability. Amendments are also proposed to Section 1002 in order to update the definition of "alteration" as well as other general amendments resulting from proposed changes to Section 423. The HPC reviewed this proposal at their workshop on February 23, 2012.

Section 423

1. Use "site or structure" throughout to more closely align with the language in

Article 66B, §8, Historic Area Zoning.

2. Remove "of unusual importance" from 423(e)(1)(A) and (B). Existing language states the Commission "shall determine the degree of significance of the structure or resource based on the criteria established in the Commission's guidelines. There are no criteria in the Commission's guidelines for identifying sites or structures "of unusual importance." Sites and structure of unusual importance are, by definition, also contributing. Therefore, the multi-hearing process identified for contributing resources applies.

3. Move the section on "Replacement Plans" to the "Procedures" section so that it is clear from the beginning that an application for a replacement plan is required as

part of the process.

4. In 423(e)(2) and (3), eliminate the special definition of "structure" as an entire structure only and eliminate the special definition of "resource" as part of structure.

Section 1002 already includes a detailed definition of structure that is specific to Section 423 and includes "a part thereof." It unnecessary to include this specific definition in 1002 and then refer back to 423 and find that it is defined differently.

It is not immediately clear from reading 423(e)(3) that "resource" is

defined as a part of feature of structure.

Resource, as currently defined, is not in line with its use in historic preservation. Resource is more typically used as an alternative to "site or structure" and is not limited to a part of a structure.

These two subsections have been combined.

5. Eliminate the references to structures or resources "of unusual importance" in Approval Criteria for Demolition. Sites and structures "of unusual importance" are also contributing sites or structures (see 6).

6. Move the section on "Sites and Structures of Unusual Importance" to be immediately following the section on demolition and update the definition to be "a contributing site or structure that individually meets one or more of the criteria for

designation..."

7. Reintroduce the section on "Certificate of Approval Expiration" that was dropped from the 2009 update. Certificates of Approval normally expire two years after the date of approval or the date of the water and sewer allocation contract, if applicable.

Section 1002

1. Update the definition of alteration to include the painting or coating of masonry structures that are not currently painted or coated in the Historic Preservation Overlay.

2. Replace all references to "Historic Frederick District Regulations" with "Historic

Preservation Overlay (HPO) District regulations."

3. Replace all references to "Historic District Commission" with "Historic Preservation Commission."

4. Provided a more concise definition of "Character-Defining Elements" based on the National Park Service "Preservation Brief 17: Architectural Character:

- Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character." Eliminate references to outdated guidelines.
- 5. Delete definition of "Character Defining Features" because it is redundant.
- 6. Provide a more concise definition of "Integrity" based on the National Register Bulletin.
- 7. Delete definition of "Landmark" because Section 423 uses "site or structure."
- 8. Delete definition of "Resource." See amendments to Section 423 above. (NOTE: Resource was left out of most recent LMC supplement so it may not appear in your copies.)

2010 Comprehensive Plan

With regards to the Comprehensive Plan, Staff finds that the proposed amendments are consistent with the following goals and implementation strategies:

 Land Use Policy 6: Improve City Regulations in order to provide a user-friendly and predictable permitting process.

STAFF RECOMMENDATION

Staff supports a positive recommendation for the amendments as proposed to the Mayor and Board of Alderman.

THE CITY OF FREDERICK MAYOR AND BOARD OF ALDERMEN

ORDINANCE NO: LEGISLATIVE HISTORY PLANNING COMMISSION			
PUBLIC HEARING:	April 9, 2012		
RESOLUTION SUBMITTED TO MAYOR & BOARD:			
MAYOR & BOARD OF ALDERME	<u>N</u>	•	
WORKSHOP:			
PUBLIC HEARING:			
	t-		

AN ORDINANCE concerning

Historic Preservation Overlay District and Definitions

FOR the purpose of clarifying the process for demolition and the treatment of sites and structures of unusual importance and to provide for expiration of approvals as well as update various definitions related to historic preservation.

BY repealing and reenacting with amendments

Section 423
Appendix A, "Land Management Code"
The Code of The City of Frederick, 1966 (as amended)

BY amending

Section 1002 Appendix A, "Land Management Code" The Code of The City of Frederick, 1966 (as amended)

SECTION 1. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that Section 423 of the Land Management Code, Appendix A of The Code of The City of Frederick, 1966 (as amended), be amended by repealing and reenacting with Section 423 as follows:

Sec. 423 Historic Preservation Overlay (HPO) District

- (a) *** (b) ***
- (c) ***
- (d) ***

(e) Demolition.

- (1) **Procedures.** In making a decision on a demolition application, the Commission may use a multi-hearing process as further described in this § 423(e)(1).
 - A. Degree of Significance. At the first hearing, the Commission shall determine the degree of significance of the site or structure based on the criteria established in the Commission's guidelines. For purposes of this § 423(e), "degree of significance" means (a) "non-contributing"; or (b) "contributing."
 - B. Approval or Denial of Demolition Request.
 - (i) Non-contributing. If the Commission determines that a site or structure is non-contributing, the Commission may take action on the demolition request at the same hearing.
 - (ii) Contributing. If the Commission determines that a site or structure is contributing, the Commission may not vote on the demolition request until a subsequent hearing.
 - C. Replacement Plans. An application for demolition of a site or structure shall include a replacement plan. Approval for the demolition of a site or structure may be conditioned upon the approval of an acceptable replacement plan. A bond or other financial guaranty in the amount of the cost of the replacement structure may be required in order to assure the completion of the replacement plan.
- (2) Approval Criteria for Demolition.
 - A. Non-contributing. The Commission may approve the demolition of a non-contributing site or structure if the following pertains:
 - (i) The integrity of the streetscape will not be compromised;
 - (ii) The integrity of any surrounding historic properties will not be compromised; and
 - (iii) The design integrity of any remaining structure will not be compromised if the structure being considered for demolition is a part thereof.
 - B. Contributing. The Commission may approve the demolition of a contributing site or structure if the following pertains:

- (i) The integrity of the streetscape will not be compromised;
- (ii) The integrity of any surrounding historic properties will not be compromised; and
- (iii) The degree of significance of any remaining structure will not be compromised if the structure being considered for demolition is a part thereof.
- (3) Demolition by Neglect. In the event of demolition by neglect, the Commission may request that the appropriate department of the City initiate enforcement action against any appropriate defendant in accordance with the Property Maintenance Code or other applicable City law.

(f) Sites and Structures of Unusual Importance.

- (1) **Definition.** For purposes of this § 423(f), a site or structure "of unusual importance" is a contributing site or structure that individually meets one or more of the criteria for designation set forth in § 423(c)(2).
- (2) Plan to Preserve Site or Structure.
 - A. If an application is submitted for construction, reconstruction or alteration, moving, or demolition of a site or structure of unusual importance, the Commission shall attempt to formulate an economically feasible plan with the owner of the site or structure for its preservation.
 - B. If no economically feasible plan can be formulated, the Commission shall have 90 days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the site or structure.

(3) Action on Application.

- A. Denial. Except as otherwise provided in §423(f)(3)(B), unless the Commission is satisfied that the proposed construction, reconstruction or alteration will not materially impair the historic, archeological or architectural significance of the site or structure, the Commission shall deny the application for construction, reconstruction or alteration.
- B. Approval. The Commission may approve the proposed construction, reconstruction, alteration, moving or demolition if:
 - (i) The structure is a deterrent to a major improvement program that will be of substantial benefit to the City;

- (ii) Retention of the structure would cause undue financial hardship to the owner; or
- (iii) Retention of the structure would not be in the best interests of a majority of persons in the City.

(g) New Construction.

- (1) Applicability. This section 423(g) applies to any new construction (in a historic preservation overlay zone) for which a site plan is required pursuant to § 309 of this Code.
- (2) Phased Review. The Commission will review applications for new construction projects in two phases, which will be known as "Level I" and "Level II". A separate application is required for each phase.

A. Level I.

- (i) During Level I review, the Commission will consider the following aspects of any proposed new construction project, using the criteria established in the Commission's guidelines:
 - (a) Location;
 - (b) Footprint;
 - (c) Massing;
 - (d) Height;
 - (e) Setback;
 - (f) Scale;
 - (g) Façade;
 - (h) Roof forms;
 - (i) Materials; and
 - (j) Plot plan.
- (ii) After the Commission reviews those aspects of the project set forth in § 423(g)(2)(A)(i), it may issue a Level I certificate of approval.
- B. Site Plan. The applicant shall obtain conditional or unconditional final site plan approval after the Commission issues a Level I certificate of approval and before the Commission commences Level II review of a new construction project.

C. Level II.

- (i) During Level II review, the Commission will consider the following aspects of any proposed new construction project, using the criteria established in the Commission's guidelines:
 - (a) Texture;
 - (b) Openings;
 - (c) Lighting;
 - (d) Landscaping;
 - (e) Site plan;
 - (f) Final articulation;
 - (g) Detailed façade and elevations; and
 - (h) Fenestration.
- (ii) After the Commission reviews those aspects of the project set forth in § 423(g)(2)(B)(i), it may issue a Level II certificate of approval.
- (h) Certificate of Approval Expiration. Any Certificate of Approval by the Historic Preservation Commission shall become void two years from the later of:
 - (1) The date of the approval; or
 - The date of the water and sewer allocation contract (if applicable) as specified in § 742 (Water & Sewer Allocation) indicating sufficient allocation has been received to construct;

If no zoning or building permit has been issued for development of the project. A six-month extension may be granted by the Department upon request of the applicant. Further extensions may be granted by the Commission.

- (i) Appeals. Any person aggrieved by a decision of the Commission may, within 30 days of the decision, file a petition for judicial review in the Circuit Court for Frederick County in accordance with the Maryland Rules applicable to judicial review of administrative agency decisions.
- (j) Maryland Historical Trust. The Commission may designate the Maryland Historical Trust or a private qualified historic preservation consultant to conduct an analysis of, report on, or recommend the preservation of sites, structures, or districts of historic, archeological, architectural, or cultural significance within the

City. The report may include proposed boundaries of sites, structures, or districts, as well as recommendations for the identification and designation of particular sites, structures, or districts to be preserved.

SECTION 2. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that Section 1002 of the Land Management Code, Appendix A of The Code of The City of Frederick, 1966 (as amended), be repealed and reenacted with amendments to the following terms in alphabetical order as they appear:

Alteration

Any enlargement; addition; relocation; repair; remodeling; change in number of living units; development of or change in an open area; development of or change in a sign, by painting or otherwise; or other change in a facility, but excluding painting except as provided above for signs and ordinary maintenance for which no building permit is required. For purposes of the Historic Preservation Overlay (HPO) District regulations (§ 423 of this Code), an alteration shall include the painting or coating of masonry structures that are not currently painted or coated.

Appurtenances and environmental settings

All that space of grounds and structures which surrounds a designated site or structure and to which it relates physically or visually. Appurtenances and environmental settings include, but are not limited to, walkways and driveways (whether paved or not), trees, landscaping, pastures, croplands, waterways, open space, setbacks, parks, public spaces, and rocks. (Reference: Historic [Frederick] Preservation Overlay (HPO) District regulations, § 423)

Building

A structure other than a tent or travel trailer, which has one or more stories and a roof, and is designed primarily for the permanent shelter, support, or enclosure of persons, animals, or property of any kind. For purposes of the Historic [Frederick] Preservation Overlay (HPO) District regulations (§ 423 of this Code), a "building" is a structure created to shelter human activity.

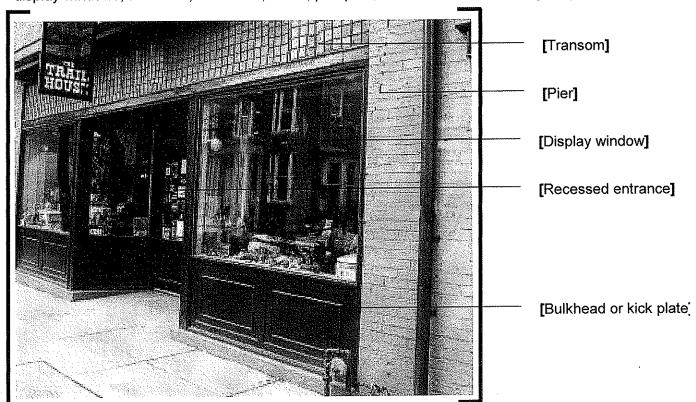
Certificate of Approval

A certificate issued by the Historic Preservation Commission stating its approval of plans for construction, alteration, reconstruction, moving, or demolition of an individually designated landmark, site, or structure or of a site or structure within [a designated preservation district] the Historic Preservation Overlay (HPO) District.

Character-Defining Elements or Features

Character-defining elements include the overall shape of a site or structure, its materials, craftsmanship, decorative details and features, as well as the distinctive aspects of its appurtenances and environmental setting. Character-defining elements make up the overall character, or the unique appearance, of a historic

site or structure. [Building features that: (1) make a structure unique and different from other buildings, or (2) are characteristic elements of a particular architectural style, technique or architect, or (3) provide a building its unique identity. These include, but are not limited to, exterior building materials that include brick, stone, stucco, terra cotta, or wood; windows, shutters, and transoms; porches; roofs; cornices; bulkheads; piers; display windows; transoms; entrances; doors; parapets; or exterior or attached lighting.]



[Character Defining Elements for Storefront

(Source: Frederick Town Historic District Design Guidelines)]

[Character-Defining Feature

A prominent or distinctive aspect, quality, or characteristic of a district, site, building, structure, or object that contributes significantly to its physical character. (Reference: Historic Frederick District regulations, § 423 of this Code)]

Commission

The Planning Commission of Frederick City, unless otherwise noted. For purposes of the Historic [Frederick] <u>Preservation Overlay (HPO)</u> District (§423), "Commission" means The City of Frederick Historic Preservation Commission.

Decorative

Special treatment or application such as texture or color used in building materials, walls, concrete finishes, or other building elements in order to provide ornamentation,

but not required for the operation of the essential systems and components of a building. For walls or fences, "decorative" refers to fences constructed of masonry or ornamental iron, or white picket fences, but does not include wood slats, wire mesh or chain link fencing. The reviewing agency may approve other treatments, materials, applications, or colors that are substantially similar to those enumerated in this section. (Reference: Historic [Frederick] Preservation Overlay (HPO) District regulations, § 423 of this Code)

Demolition by Neglect

Any willful neglect in the maintenance and repair of an individually designated site or structure, or a site or structure within a designated preservation overlay district, not including any appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in or threatens to result in any of the following conditions:

- The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or (a) windows, so as to create or permit a hazardous or unsafe condition; or
- The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or (b) windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to features including but not limited to foundations, exterior walls, roofs, chimneys, doors, or windows.

(Reference: Historic [Frederick] Preservation Overlay (HPO) District regulations, § 423 of this Code.)

Department

The Frederick City Department of Planning and Community Development, unless otherwise indicated.

For purposes of the Floodplain Management Regulations (§ 620), "Department" means the Department of Natural Resources, Water Resources Administration.

For purposes of the Historic [Frederick] Preservation Overlay (HPO) District regulations (§ 423), "department" means the Department of Planning and Community Development of The City of Frederick.

District or Zone

Area within the City, which certain uniform regulations or requirements apply under this Code. For purposes of the Historic [Frederick] Preservation Overlay (HPO) District regulations (§ 423 of this Code), "district" means a geographically definable area-urban or rural, small or large—possessing a significant concentration, linkage, or continuity of sites, structures, or objects united by past events or aesthetically by plan or physical development. A historic district shall include all property within its boundaries as defined and designated by the Mayor and Board of Aldermen.

Exterior Feature

The architectural style, design, and general arrangement of the exterior of a historic structure, including but not limited to the nature and texture of building material, and the type and style of all windows, doors, stoops, light fixtures, signs, or similar items found on or related to the exterior of a historic structure. (Reference: Historic [Frederick] Preservation Overlay (HPO) District regulations, § 423 of this Code.)

[HDC] HPC Guidelines

The Frederick Town Historic District Design Guidelines[, which requirements are incorporated by reference in Article 4 of this Code] or any other guidelines adopted by the Board of Aldermen for rehabilitation and new construction design in the Historic Preservation Overlay (HPO) District, § 423.

Integrity

The ability of a site or structure to convey its significance. [The authenticity of a property's historic identity, evinced by the survival of physical characteristics that existed during the property's historic or prehistoric period.] The seven qualities of integrity, as defined by the National Register of Historic Places, are location, setting, feeling, association, design, workmanship, and materials. (Reference: Historic [Frederick] Preservation Overlay (HPO) District_regulations, § 423 of this Code.)

[Landmark

Any designated site or structure outside the boundaries of an historic district that is of exceptional historic, archeological, or architectural significance. (Reference: Historic Frederick District regulations, § 423)]

Preservation

The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. Preservation includes upgrading of mechanical, electrical and plumbing systems and other such code-required work. (Reference: Historic [Frederick] Preservation Overlay (HPO) District regulations, § 423 of this Code.)

Reconstruction

The process of reproducing by new construction the exact form and detail of a vanished structure, or part thereof, as it appeared at a specific period of time. (Reference: Historic [Frederick] **Preservation Overlay (HPO)** District regulations, § 423 of this Code.)

Repair

The process of rehabilitation which warrants additional work beyond simple maintenance; repair includes patching, piecing in, splicing, consolidating or otherwise, reinforcing materials according to recognized preservation methods. (Reference:

Historic [Frederick] Preservation Overlay (HPO) District regulations, § 423 of this Code.)

Replacement [Building] Plan

New construction in the [Frederick Town Historic District] Historic Preservation Overlay (HPO) District of any size or use that is built on a lot or lots where a contributing historic structure was originally sited and subsequently destroyed, in any manner whatsoever including by neglect, since the adoption of this Ordinance on September 2, 2004.

[Resource

For the purposes of § 423, "resource" means a part of feature of a structure.]

Restoration

The process of accurately recovering the form and details of a property as it appeared at a specific period of time by means of removal of later work and the replacement of work missing from that period. (Reference Historic [Frederick] Preservation Overlay (HPO) District regulations, § 423 of this Code.)

Reviewing Authority

For applications that are within the Carroll Creek Overlay District (CCOD) but not the Frederick Town Historic District, the "Reviewing Authority" means the Planning Commission. For applications that are within the CCOD and the Frederick Town Historic District, the "Reviewing Authority" means the Historic [District] Preservation Commission and the Planning Commission.

Routine maintenance

Work that does not alter the exterior fabric or features of a site or structure and has no material effect on the historic, archaeological, or architectural significance of the historic site or structure. (Reference: Historic [Frederick] Preservation Overlay (HPO) District regulations, § 423 of this Code.)

Site

Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision or project. For purposes of the Historic [Frederick] Preservation Overlay (HPO) District regulations (§ 423 of this Code), "site" means the location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, architectural, archeological, or cultural significance. For purposes of the Floodplain Management regulations (§ 720 of this Code), the term "site" has the following meanings:

For "new development" means any tract, lot or parcel of land or combination of (a) tracts, lots or parcels of land which are in one ownership, or are contiguous and

- in diverse ownership where development or redevelopment is to be performed as part of a unit, subdivision or project.
- (b) For "redevelopment" means the area of new construction as shown on an approved site plan; or the original parcel. Final determination of the applicable area shall be made by the Engineering Department.

Structure

- An assembly of materials forming a construction, or intended to form a construction, for any occupancy or use. For purposes of the Historic [Frederick] Preservation Overlay (HPO) District regulations (§ 423 of this Code), structure "means" a combination of material to form a construction that is stable, including but not limited to buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, and display signs visible or intended to be visible from a public way. "Structure" also includes a natural land formation and an appurtenance and environmental setting. The term "structure" shall be construed as if followed by the words, "or part thereof."
- (b) (as applied to Floodplain Management regulations, § 720 of this Code.)

 A walled and roofed building including, but not limited to, manufactured homes, gas and liquid storage tanks, garages, barns and sheds.
- (c) (as applied to the Airport)
 Any object, including a mobile object, constructed or installed by any person, including but not limited to buildings, towers, cranes, smokestacks, earth formations, towers, poles and electric lines of overhead transmission routes, flag poles, and ship masts.
- **SECTION 3.** In the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

SECTION 4. This ordinance shall take effect on XXXX 2012, and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

[Bold Brackets] indicate material deleted Underlining indicates material added *** indicates no change

APPROVED:	PASSED:	
Randy McClement, Mayor	Randy McClement, President, Board of Aldermen	

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

Opossumtown Pike

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-158ZMA PC12-159ZMA

PROPERTY OWNER:

Julius Levine and Tae Soon

John McKinney and Linda Lyons

ADDRESS:

7912 and 7916 Opossumtown Pike

Frederick, MD 21702

APPLICANT:

owner

ADDRESS:

same

PHONE NUMBER:

PROPERTY

LOCATION:

North Side of Opossumtown Pike between Fort Detrick and

Frederick Community College

REVIEWED BY:

M. Davis

DATE:

3/28/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone properties by removing the IST (Institutional) Floating Zone with the base zoning of R8 (Residential) to remain.

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan

Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation 2010 Comprehensive Plan Designation	Institutional Low Density
2004 Zoning District 2012 Zoning District	R3 (Low Density) IST (Institutional)
Property Owner's Request	R8 (Residential)
Current Use	Single Family Home

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

Each of the two properties are individually owned, used residentially and are developed by single-family homes. The purpose of the IST zone is to provide requirements for siting large-scale institutional uses such as places of worship, schools, meeting halls, government office buildings, etc. Staff surmises the proximity of these properties to both Fort Detrick and Frederick Community College may have led to a mapping error that identified them as Institutional land uses. The request of R8 zoning is consistent with the zoning of the residences directly across Opossumtown Pike from the subject properties.

Matthew Davis

From:

jay_levine@comcast.net

Sent:

Thursday, March 01, 2012 6:52 PM

To:

Matthew Davis

Subject:

Zoning

Mr. Davis:

Concerning the property at 7912 Opossumtown Pike. I am aware that the property was incorrectly zoned as IST. I would like to have the property rezoned from IST back to R8.

The property is residential property and is not nor has it ever been affiliated with either Ft Detrick or Frederick Community Collage both of which are zoned as institutional properties.

Because of the current zoning what can be done with my property is very limited and should something happen to cause 50% or more damage I can't rebuild as residential. This is a serious mistake on the part of the the individuals responsible for zoning and I am hopeful it can be rectified as soon as possible.

Julius H & Tae Soon Levine 79.12 Opossumtown Pike Frederick, MD 21702 (301) 695-5782

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

7419 Hayward Road

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-160ZMA

PROPERTY OWNER:

Mayfair Properties,LLC

ADDRESS:

74420 Hayward Road, Suite 203

Frederick, MD 21702

APPLICANT:

Rand D. Weinberg

ADDRESS:

15 North Court Street

Frederick, Maryland 21701

PHONE NUMBER:

301-662-1113

PROPERTY

LOCATION:

South side of Hayward Road at its intersection with Byte Drive

REVIEWED BY:

M. Davis

DATE:

3/28/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property by removing the IST (Institutional) Floating Zone and rezone to PB (Professional Business).

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite

the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation Institutional 2010 Comprehensive Plan Designation Institutional

2004 Zoning District R3 (Low Density)
2012 Zoning District IST (Institutional)

Property Owner's Request PB (Professional Business)

Current Use vacant

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The 0.68 acre property is developed with a single-family residence and is surrounded on three sides by lands of the Monocacy Elementary School which are zoned IST. Directly across Hayward Road are lands zoned M1 (Light Industrial) and used for professional

offices. Prior to the last comprehensive rezoning the property was zoned R3. It appears this property was incorrectly identified as IST in the current and previous Comprehensive Plans; as neither its use nor ownership has suggested a use consistent with the IST floating zone.

Professional Business (PB) would be the least intrusive zone being located adjacent to schools.

LAW OFFICES

OF

RAND D. WEINBERG, LLC

RAND D. WEINBERG

OF COUNSEL

TO

MILES & STOCKBRIDGE P.C.

IS NORTH COURT STREET
FREDERICK, MARYLAND 21701
TELEPHONE (301) 662-1113
FACSIMILE (301) 662-1166

MANUEL M. WEINBERG (1907 - 1987) DAVID S. WEINBERG RETIRED

February 9, 2012

Via Hand Delivery & Electronic Mail

Mr. Joe Adkins
Deputy Director of Planning
Municipal Annex Bldg.
140 West Patrick Street
Frederick, MD 21701
jadkins@cityoffrederick.com

Re:

Comprehensive Rezoning Request

Property Owner: Mayfair Properties, LLC

Address of Property: 7419 Hayward Road, Frederick, MD 21702

2010 Comprehensive Plan Land Use: Institutional

Requested Zoning Classification: Professional Business (PB)

Dear Joe:

On behalf of the Mayfair Properties, LLC ("Applicant"), I am writing to request the comprehensive rezoning of 7419 Hayward Road, Frederick, MD 21701 (Tax Map 0401, Parcel 1441) (the "Property") to **Professional Business** ("**PB**").

The Property is improved with a residence and is surrounded on three sides by the northern edge of the Monocacy Elementary School property and has frontage on Hayward Road. Directly across from the Property are professional office uses (including Ausherman Development Corporation, an affiliated entity of the Applicant) and International Community Church (formerly known as Maranatha Church of God).

The Property was zoned R-3 in 1996. Based on available information, the City of Frederick rezoned the Property to Institutional ("IST") in 2005, when the Property was owned by the Applicant's predecessor in interest. Based on information and belief, the owner at the time did not consent to the 2005 rezoning. It is likely the City took an over-inclusive approach to this area of the City and rezoned the Property to IST along with the adjoining Monocacy Elementary School property.

Institutional zoning is inappropriate for the Property. Section 409 of the Land Management Code ("LMC") states the purpose of the IST zone is "for siting large-scale institutional uses, such as conference centers, places of worship, schools, meeting halls, museums, public safety

Mr. Joe Adkins February 9, 2012 Page 2

facilities, and government administrative offices." The Property is approximately 0.68 acres, and therefore not appropriate for a large-scale institutional use. Section 409 of the LMC further sets forth the procedure and criteria necessary for the implementation of the IST zone, which is a floating zone. Section 409 of the LMC contemplates that the IST zone be implemented following a property owner's request, and demonstration that specific criteria are met. Maryland zoning decisions suggest this type of zone "floats" over a property until the owner applies for its "descent" upon the property through the floating zone process. Based on information and belief, the property owner in 2005 never filed an application for the IST zone. Although the R-3 base zoning remained, underlying the IST zoning, the 2005 rezoning to IST created a non-conforming use, since the Property at the time served a residential use.

Consistent with LMC Section 401, Professional Business (PB) is an appropriate zone for the Property, given the Property's proximity to other office, medical office, and research and development uses along Hayward Road and Thomas Johnson Drive. Current, active market demand exists for Professional Business zone property in the Property's vicinity, including across the street in the Ausherman building, and within a 1.5 mile radius of the Property.

The requested rezoning is consistent with the Land Use Element of the City's Comprehensive Plan, as it would facilitate Professional Business uses that are appropriately located, compatible with adjacent uses, and in service of the City's present and future needs. The rezoning creates a "First Tier Growth - Infill and Redevelopment" opportunity proximate to the US 15 corridor. With the surrounding Institutional and office uses, the rezoning would allow redevelopment of the Property from residential use to the Property's highest and best use. The requested rezoning is consistent with the Economic Development Element of the City's Comprehensive Plan, since the availability of Professional Business uses at the Property would allow the Applicant and the City to take advantage of the opportunities discussed in the Comprehensive Plan (e.g., available educated workforce, proximity to Washington, DC, Baltimore, and Fort Detrick). The request would support small business and entrepreneurs by providing needed business locations and would help to maintain a diverse industry mix by facilitating the ability of a variety of businesses to locate in the City.

For the above reasons, the Applicant respectfully requests a rezoning of the Property from IST/R-3 (base zone) to **Professional Business** (**PB**). Please let me know if you need additional information. Otherwise, I look forward to supplementing the record as necessary, in support of this request.

Rand D. Weinberg

Enclosures (Zoning and Comprehensive Plan Maps)

cc: Mayfair Properties, LLC

CITY OF FREDERICK PLANNING COMMISSION

PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

NAME OF PROJECT:

7630 Hayward Road

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-161ZMA

PROPERTY OWNER:

Frederick County Board of Education

ADDRESS:

191 S. East Street

Frederick, MD 21701

APPLICANT:

Frederick County Public Schools

ADDRESS:

191 S. East Street

Frederick, MD 21701

PHONE NUMBER:

301-644-5025

PROPERTY

LOCATION:

North side of Hayward Road and west of its intersection

with Thomas Johnson Drive

REVIEWED BY:

DATE:

M. Davis

3/28/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property by removing the IST (Institutional) Floating Zone with the M1 (Light Industrial) zoning to remain

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and

R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation Institutional 2010 Comprehensive Plan Designation Office/Industrial

2004 Zoning District M1

2012 Zoning District IST (Institutional)

Property Owner's Request M1 (Light Industrial)

Current Use vacant

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

This parcel was recently subdivided from a property owned by the Board of Education. It is improved by a vacant manufacturing facility that formerly housed Frederick Electronics and includes 4.85 acres. The remainder of the original property to the north is proposed to remain zoned IST and used by Frederick County Public Schools and another parcel has been identified as a site for a future fire station. To the east across Thomas Johnson Drive are lands zoned GC, immediately to the south across Hayward Road are properties zoned PB and to the west is property zoned M1. The applicant's intent is to market the property for sale and declare it surplus once a buyer is located, thereby eliminating the need to identify the property as institutional.

FACILITIES SERVICES DIVISION 191 5 East St. Frederick, MD 21701 301-644-5025 phone 301-644-5027 fax

www.fcps.org



Ray Barnes, Executive Director ray.barnes@fcps.org

January 17, 2012

Mr. Joseph Adkins
Deputy Director for Planning
Municipal Annex Building
140 West Patrick Street
Frederick, MD, 21201

Re: Comprehensive Rezoning, Board of Education Properties on Hayward Rd

Dear Mr. Adkins:

In addition to the request you recently received from Ms. Angie Fish, President of the Board of Education, concerning 115 East Church Street I would also like to request that the Institutional floating zone designation be "lifted "from both of the Hayward Road properties that the Board now has on the market for sale and plans to formally declare surplus once a buyer is identified. They are:

- a A part of 7630 Hayward Rd specifically Lot 26 as shown on the Final Subdivision and Addition Plat, Lots 24,25,and 26 Section One FREDERICK ELECTRONICS which was recently approved by the Planning Commission. That is a 4.85 acre lot on which the former Frederick Electronics /Plantronics build in now located. I will note that Lots 25 as shown on that plat is to be conveyed to the County for a fire station and Lot 24 is still in use by FCPS as a warehouse and offices. Both of those lots should retain the Institutional floating zone.
- b. 7516 Hayward Road: Lot 1 as shown on Addition Plat, Liber 597 Folio 22 (Lot 1) Addition to Liber 738, Folio 627 (Lot 2) THE BOARD OF EDUCATION OF FREDERRICK COUNTY MD. This is the property commonly referred to as "The Farmhouse" and consists of a lot of +/- 1.5 acres

Frederick County Public Schools still owns both properties but has in effect "mothballed" them and has them on the market. I believe the Institutional floating zone should reflect the use and not necessarily ownership by a public entity and therefore institutional zoning is no longer appropriate. I also believe that the forthcoming Comprehensive Rezoning is the proper mechanism for them revert to the base zoning which is M-1. I hope that you agree and will include then among the other requests.

Thank you for your consideration .Should you need any additional information please feel free to contract me or lim Schmersahl of my staff.

Sincerely:

Executive Director of Facilities Services

CC: Dr. Theresa Alban, PhD

mond v Barnes

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

7516 Hayward Road

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-162ZMA

PROPERTY OWNER:

Frederick County Board of Education

ADDRESS:

191 S. East Street

Frederick, MD 21701

APPLICANT:

Frederick County Public Schools

ADDRESS:

191 S. East Street

Frederick, MD 21701

PHONE NUMBER:

301-644-5025

PROPERTY

LOCATION:

North side of Hayward Road and west of its intersection

with Thomas Johnson Drive

REVIEWED BY:

M. Davis

DATE:

3/28/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property by removing the IST (Institutional) Floating Zone with the M1 (Light Industrial) zoning to remain

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation Institutional Office/Industrial

2004 Zoning District M1

2012 Zoning District IST (Institutional)

Property Owner's Request M1 (Light Industrial)

Current Use vacant

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

This 1.54 acre parcel is known as the "Farmhouse" and until recently housed administrative offices of Frederick County Public Schools. To the south across Hayward Road are lands zoned R8 and developed residentially as well as properties zoned PB. To the west and north of the subject property are lands zoned IST and utilized by the school system. To the east and north is a single property zoned M1. The applicant's intent is to market the property for sale and declare it surplus once a buyer is located, thereby eliminating the need to identify the property as institutional.

FACILITIES SERVICES DIVISION 191 5 East St. Frederick, MD 21701 301-644-5025 phone 301-644-5027 fax www.fcps.org



Ray Barnes, Executive Director ray.barnes@fcps.org

January 17, 2012

Mr. Joseph Adkins Deputy Director for Planning Municipal Annex Building 140 West Patrick Street Frederick, MD. 21201

Re: Comprehensive Rezoning, Board of Education Properties on Hayward Rd

Dear Mr. Adkins:

In addition to the request you recently received from Ms. Angie Fish, President of the Board of Education, concerning 115 East Church Street I would also like to request that the Institutional floating zone designation be "lifted "from both of the Hayward Road properties that the Board now has on the market for sale and plans to formally declare surplus once a buyer is identified. They are:

- A part of 7630 Hayward Rd specifically Lot 26 as shown on the Final Subdivision and Addition Plat.

 Lots 24,25,and 26 Section One FREDERICK ELECTRONICS which was recently approved by the Planning Commission. That is a 4.85 acre lot on which the former Frederick Electronics /Plantronics build in now located. I will note that Lots 25 as shown on that plat is to be conveyed to the County for a fire station and Lot 24 is still in use by FCPS as a warehouse and offices. Both of those lots should retain the Institutional floating zone.
- b. 7516 Hayward Road: Lot 1 as shown on Addition Plat, Liber 597 Folio 22 (Lot 1) Addition to Liber 738, Folio 627 (Lot 2) THE BOARD OF EDUCATION OF FREDERRICK COUNTY MD. This is the property commonly referred to as "The Farmhouse" and consists of a lot of +/- 1.5 acres

Frederick County Public Schools still owns both properties but has in effect "mothballed" them and has them on the market. I believe the Institutional floating zone should reflect the use and not necessarily ownership by a public entity and therefore institutional zoning is no longer appropriate. I also believe that the forthcoming Comprehensive Rezoning is the proper mechanism for them revert to the base zoning which is M-1. I hope that you agree and will include then among the other requests.

Thank you for your consideration .Should you need any additional information please feel free to contract me or lim Schmersahl of my staff.

Sincerely:

Raymond v Barnes

Executive Director of Facilities Services

CC: Dr. Theresa Alban. PhD

CITY OF FREDERICK PLANNING COMMISSION

PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

NAME OF PROJECT:

7518A North Market Street

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-163ZMA

PROPERTY OWNER:

John and Wendy Gibson

ADDRESS:

10763 Easterday Road

Myersville, Maryland 21773

APPLICANT:

ADDRESS:

same

PHONE NUMBER:

301-471-9001

PROPERTY

LOCATION:

East side of U.S. 15 south of its intersection with MD 26

(behind Frederick Sportsplex)

REVIEWED BY:

DATE:

M. Davis

3/28/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property from RC (Resource Conservation) to GC (General Commercial)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and

R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation 2010 Comprehensive Plan Designation	Moderate Density Residential Low Density Residential
2004 Zoning District 2012 Zoning District	R1 (Low Density Residential) RC (Resource Conservation) HNO (Highway Noise Impact) Overlay Zone
Property Owner's Request	GC (General Commercial)
Current Use	Residential

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

This request includes two parcels; one developed with a single-family home and the other parcel undeveloped. Together they total approximately 8.2 acres in size. U.S. 15 and MD 26 border the property to the west and north respectively. To the east are lands zoned M1 and developed with light industrial uses. Immediately adjacent to the site is the Frederick Sportsplex. South of the property lies Rose Hill Manor Park, consisting of approximately 43 acres and zoned IST.

Access to the site is via a fee simple driveway from North Market Street. The State Highway Administration restricts access to this property from U.S. 15. The site is dissected by floodplain running west to east. Additionally, this property is impacted by the Highway Noise Impact Overlay Zone which increases restrictions on residential uses.

Matthew Davis, AICP
Manager of Comprehensive Planning
Municipal Office Annex
140 West Patrick Street
Frederick, MD 21701

Date 2/29/2012
Dear Mr. Davis,
It is our understanding that you are accepting zoning change applications for the upcoming Comprehensive Plan Review. We would like to request that our property,
Address 7518 A North Market Street, Frederick MD 2170,
And the adjoining parcel (no listed address, as shown on the attached map) be given the
Zoning Classification <u>GENERAL</u> CommerciaL
Should you need any additional information from us, we are happy to provide it.
Sincerely,
John W. Hilson Wenly M Gleson
John W. Gibson Wendy Gibson
301471-9001
John Gibson 10763 Easter day RD Myersville, MD & 1773 jwGib 560 Verizon. net

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

199 Baughman's Lane

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-164ZMA

PROPERTY OWNER:

Conley Family Partnership

ADDRESS:

203 Grove Boulevard

Frederick, Maryland 21702

APPLICANT:

ADDRESS:

same

PHONE NUMBER:

PROPERTY

LOCATION:

Between Bel Aire Lane and Baughman's Lane, south of

Tasker's Chance

REVIEWED BY:

DATE:

M. Davis 3/28/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property from R4 (Low Density Residential) to R12 (Medium Density Residential)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and

R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation	Moderate Density Residential
2010 Comprehensive Plan Designation	Medium Density Residential
2004 Zoning District	R2 (Low Density Residential)
2012 Zoning District	R4 (Low Density Residential)
Property Owner's Request	R12 (Medium Density Residential)
Current Use	Residential

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

This 32 acre property is home to the Belle Aire-Conley Farm and is developed with a farmhouse, barn and several outbuildings. Much of the land is open field or pasture with more wooded areas at the northern and southern edges of the property. Rock Creek also flows along the southern border. The Tasker's Chance subdivision surrounds the property on three sides and is zoned R8 and is developed with single-family and townhomes. To the east across Baughman's Lane are single-family homes zoned R4 and part of the Rock Creek Estates subdivision.

The Belle Aire-Conley Farm is identified in the 2010 City of Frederick Comprehensive Plan as a property eligible to be designated with the Historic District Overlay.

The R4 District only permits single-family homes on minimum 8,000 square foot lots. The R12 District would permit single and two family, duplex, townhouses and multifamily dwellings up to a maximum density of 12 units per acre.

In the LMC, there are two medium density residential zoning districts the R8 and the R12. This property is large enough to use a master plan such as a TND or PND.

March 31, 2012 Case Number: 164ZMA

To Whom It May Concern:

Hello, my name is Jonathan Sander and I live at 210 Baughmans lane in Frederick, Maryland. I am writing you today with my concerns about the future of my neighborhood. The Conley farm across the street is currently designated R4 on the zoning map and it has come to my attention that the planning commission is being asked to change the zone to R12. Unfortunately, I will not be able to attend either of the scheduled hearings due to work commitments so I hope my voice will be heard electronically.

I believe it is in the best interest of the city and the neighborhood to leave the R4 zone designation as it is. Changing it to R12 will have a wide spread negative impact on the entire area. An R12 designation will lower the property values of all the homes along the designation and lessen the appeal of the surrounding neighborhoods.

I have heard a lot about the revitalization of the west side of town, and rezoning the Conley farm to R12 will only work against this concept. Increasing the population density of this area will cause more problems than it is worth for the police force, fire department, school districts, and other government agencies. R12 would also over burden Baughmans lane and the connecting streets in terms of increased traffic.

I have lived on Baughmans lane nearly forty years and have witnessed many changes to the area. I bought this house from my father with the understanding that the farm across the street would one day be single family homes similar to mine. This is a special neighborhood and I would like my newborn daughter to have a chance to feel the same way about it that I do.

If you have any questions about this small section of our wonderful city, please don't hesitate to contact me as I feel I must be an expert witness.

Thank you for your consideration,

Jonathan Sander 210 Baughmans In Frederick, MD 21702 301.662.1383 jonthansndr@aol.com

203 Grove Blvd.

Frederick, MD 21701

February 9, 2012

Dear Mr. Adkins,

I have been authorized by the members of the Conley Family Partnership to submit this request to rezone our family farm during this Comprehensive Rezoning process for the City of Frederick. The parcel consisting of 32+/- acres is located at 199 Baughman's Lane, Frederick. It is currently shown as Medium Density Residential in the Comprehensive Plan, but the land is currently zoned R-4 which is Low Density Residential. Therefore, my family is requesting R-12 zoning which will make the zoning consistent with the Comprehensive Plan.

Thank you so much for your consideration.

Sincerely,

Chapeth Onley Lagett

Elizabeth Conley Clagett

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

Fredericktowne Mall

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-165ZMA

PROPERTY OWNER:

FTM Associates

ADDRESS:

1301 W. Patrick Street

Frederick, Maryland 21702

APPLICANT:

DLC Management

ADDRESS:

580 White Plains Road

Tarrytown, NY 10591

PHONE NUMBER:

866-352-6468

PROPERTY

LOCATION:

Fredericktowne Mall property located along the north side

of US 40 (W. Patrick Street)

REVIEWED BY:

M. Davis

DATE:

3/28/12

EXHIBITS:

Owner Request, Vicinity Map, Applicable Sections from

the Land Management Code

PROJECT PROPOSAL

Request is to rezone the property from MU1 (Mixed Use) to GC (General Commercial)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan DesignationCommercial2010 Comprehensive Plan DesignationMixed Use

2004 Zoning District

2012 Zoning District

B3 (General Commercial)

MU1 (Mixed Use)

Property Owner's Request GC (General Commercial)

Current Use Commercial

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The Fredericktowne Mall property is 39.38 acres and is developed commercially with an enclosed mall and freestanding commercial buildings. It is surrounded on the east, south and west by other commercial development all zoned GC. Rock Creek provides the northern boundary of the property. Beyond the creek are the Waverly Garden apartments zoned R16.

New development projects in the MU district require a Master Plan to be approved as part of the review process. A mixture of commercial and residential is required, with neither to exceed 85% nor be less than 15% of the total project. Additionally, there are design elements in the MU District that dictate how buildings are oriented, setbacks, pedestrian amenities, sidewalk and parking location requirements and are found in Section 417 of the LMC.

Previously the owners of this property asked for and received a Mixed Use designation. Following that designation, a rezoning request was granted to rezone the property MU1. A Mixed Use Master Plan received final approval in April 2007 that included approximately 706,000 square feet of retail space and 465 condominiums.

Design standards currently exist for shopping centers with the City and are located in Section 863 of the LMC. Many of these requirements are optional in the GC District

34 Sec. 417 MIXED USE DISTRICTS (MU-1 and MU-2)

A Purpose:

• This section implements the "Planned Mixed Use" future land use classification of the Comprehensive Plan.

• Design standards are established for MU districts pursuant to the "Planned Mixed Use Designation" policies of the Comprehensive Plan.

• The MU District provides a flexible procedure for the approval of developments that provide compact, pedestrian friendly neighborhoods, but that cannot conform to some of the standards of §411 of this Article. The MU district procedure offers a discretionary, case by case review procedure for such developments in lieu of the more predictable, ministerial process established in §411.

This Section encourages the incorporation into a single project a compatible mixture of residential, commercial, employment, recreational, civic and/or cultural uses, which are developed under an

overall master plan of the unified planned development.

• The primary objective for a property developed under the Mixed Use (MU) zoning district is to provide a combination of uses including residential and non-residential uses. Non-residential uses may include office, other employment, retail, and institutional uses.

The MU-1 district is a base or Euclidean zone. It is established as part of

the comprehensive zoning map that accompanies this Code.

The MU-2 district is a floating zone. It may be approved on any property
if the Mayor and Board of Aldermen find that the general requirements
set forth in this Section have been met.

(a) Applicability and Approval Procedures

- (1) The standards established in this section apply to any property zoned MU-1 or proposed for MU-2 zoning.
- The MU-2 district is established as a floating zone that may be applied to properties not within the MU-1 zoning district as of the effective date of this Code. The MU-2 district may be applied to any tract that complies with the requirements of this Section. The Master Plan for an MU-2 District must include (1) or more contiguous tracts of land under the ownership or control of a single developer or owner, or two (2) or more contiguous tracts of land owned by two (2) or more owners if they have filed for the MU district under a joint application. Tracts separated by only a public or private street or other right-of-way are deemed to be contiguous for purposes of this Section, provided pedestrian linkages and connectivity between the tracts can be provided to meet the purpose, objectives and standards of the MU-2 district.

- B. 60% the land area devoted to Mixed Use Buildings is counted as a Residential Use and 40% is counted as a non-residential use for purposes of Table 417-1, and
- C. Live-Work Units are considered Residential Uses for purposes of Table 417-1.
- (3) The Planning Commission may grant modifications to the standards set forth in Table 417-1 for redevelopment projects provided compensating features are included to address the modifications.
- ²²(4) ADDU development must comply with Section 802 of the Land Management Code.

(c) Design Standards

(1) Building Spacing

A. The setback for principal buildings must conform to Table 417-2. The frontage and setback requirements do not apply to structures within Parks and Open Space. In order to allow for variations for unique uses, such as anchor retail tenants or auditoriums, the minimum frontage requirements in Column (B) of Table 417-2 must be computed as an average.

Table 417-2 Setback for Principal Buildings - MU District

(A) Location/Land Use Category	(B) Min. Frontage	(C) Min. Street Setback		(E) Min. Interior Setback	(F) Max. Interior Setback	(G) Min. Rear Setback
		(all	dimensio	ns are in fe	et)	
Non-residential	10	0	35	0	25	5
Residential:						
Detached Dwellings	40	20		5		20
Attached / Duplex /	15	5	35	5	port port	20
Townhouse			,			
Dwellings						
Multiple-Family	15	0	35	5	****	20
Dwellings						

B. The Planning Commission may grant modifications to the standards set forth in Table 417-2 for redevelopment projects provided compensating features are included to address the modifications.

(6) Parking

Parking areas shall be located in the rear and side yard and shall not be located between a Principal Building and a street other than an alley "unless modified by the Planning Commission." If proposed shared parking shall be provided as specified in §607(c)(3).

(7) Streets

- A. Blocks must have an average length not exceeding four-hundred (400) feet.
- B. The street connectivity ratio (see §611(j)(2)) shall be at least 1.2.
- C: At least one bus or transit shelter must be provided along every street that is located on a Maryland Transit Administration (MTA) commuter bus service route, or Frederick County TransIT bus route. Pedestrian amenities as required by subsection (4), above, must be provided along any sidewalk that provides access to a Transit Station.

(8) Outside Storage and Off-Street Loading

- A. Outside storage within an MU district shall be prohibited. Storage of materials waiting processing, delivery, sales, or the like shall be fully enclosed within building.
- B. Off-street loading shall not be along arterial roads, or a main street.

(e) Phasing

Construction of the MU project must be phased such that:

- (1) No more than 75% of the residential dwelling units are permitted until at least 25% of the non-residential floor area is constructed; and
- (2) No more than 75% of the non-residential floor area is permitted until at least 25% of the dwelling units are constructed.

Sec. 863 SHOPPING CENTERS and BIG BOX STORES

(a) Applicability

No shopping center or big box store is permitted unless it complies with the standards and procedures established by this Section.

37(b) Definitions

For purposes of this Section:

(1) "Shopping Center" means a group of three (3) or more retail stores, service establishments and other similar uses which are designed as an integrated unit and managed or coordinated as a total entity. There are four (4) types of shopping centers that may be permitted with the City as follows:

Table 863-1 Types of Shopping Centers

Shopping Center Classifications	Abbreviations for Shopping Centers	Division by Gross Building Square Footage	Applicable Zoning
Ground Floor Retail as Part of a Mixed Use Building	MUR	NA	DB, DBO, MU, TND
Neighborhood Stores	NS	Up to 59,999	NC, GC, PND, MU
Convenience Center	CC	60,000 - 99,999	GC, PND*, MU
Community/Regional	CR	100,000 - 900,000	GC

^{*}Convenience Centers are permitted in PND only if commercial land is rezoned General Commercial (GC).

(2) "Big Box Store" means a single retail establishment with a gross floor area not less than sixty thousand (60,000) square feet, and which may include fast food restaurants and/or other accessory retail uses with an entrance inside the primary retail establishment.

(c) Procedures

A shopping center or big box store is permitted only after submission to and approval by the Planning Commission of a site plan as required by § 309 and general building plans, architectural elevations and specifications as may be required for the purpose of administering these regulations. Enlargement or reconstruction of an existing shopping center or big box store is subject to the same procedure.

³⁸Table 863-2 Shopping Center/Big Box Store Design

	1	1	ŧ	т	ĭ	7	
Standard	DB	NC	GC	MU	PND	CINIL	
All rooftop mechanical equipment must be shielded from view with materials equal to the height of the equipment and that are consistent and compatible with the architectural style of the building.	М	М	М	М	М	М	
Building facades must include at least three (3) of the following architectural details: bulkheads or kick plates, piers, display windows, friezes, parapets, transom windows, and recessed entryways.	M	М	0	М	0	М	
The principal structure must have a primary pedestrian entrance facing the street in addition to any other access that may be provided.	М	М	M	М	M	М	
Windows and entryways must comprise at least 50 percent of the first floor facade.	M	M	0	М	o	M	
The front façade must be divided into structural bays that do not exceed thirty (30) feet or less in horizontal length. The Planning Commission may authorize an increase in this distance to match the average frontage along the same block face. Structural bays must be formed by vertical and horizontal articulation (i.e., sculpted, carved or penetrated wall surfaces defined by recesses and reveals) such as: • breaks (reveals, recesses) in the surface of the front elevation; or • placement of window and door openings; or • the placement of balconies, awnings, and/or canopies; or • courtyards.	M	М	О	M	0	М	
At least one entrance must be provided for every sixty (60) feet of façade length.	М	М	О	M	М	M	
At least one pedestrian protective device, such as an awning or a canopy, must be provided.	М	М	О	М	О	М	
In order to establish major identifiable focal points, massing and details of structures at block corners must be different from the massing and detail of the other structures in the block face.	М	М	О	М	0	М	
Predominant exterior building materials must not include the following: smooth-faced concrete block, smooth-faced tilt-up concrete panels, or pre-fabricated steel panels.	М	М	0	М	М	М	
Buildings that exceed 10,000 sf of gross floor area must be divided into more than one story.	М	0	0	М	0	М	
All doorways facing street rights-of-way must be recessed at least 3 feet.	М	М	0	М	М	М	
At least 50 percent of the windows of any facade facing a street right-of-way must be real multi-light windows.	М	М	0	М	О	М	

Matthew Davis

From:

Betty.R.McMenemy@uscg.mil on behalf of McMenemy, Betty

<Betty.R.McMenemy@uscg.mil>

Sent:

Thursday, March 22, 2012 10:04 AM

To:

Kelly Russell; Joe Adkins; Gabrielle Dunn; Matthew Davis; Jeff Love; Brandon Mark;

Jbokee@gmail.com

Subject:

FW: Frederick Towne Mall Location

Dear CITY Planning Commission Members;

I sent the email below to the County Planning Commission and as you can see, they instructed me to contact you as you have the authorities to make zoning decisions within the city boundaries of Frederick.

What has been and continues to be the serious degradation of the "Golden Mile" area is of serious concern to me - as it is to others. It is also my understanding that the owners of the Frederick Towne Mall (such as it is) are pushing for a "commercial only" zoning decision on this area. Further, it has been rumored that they wish to bring in another 'big box' store, which Frederick needs like a plague! Frederick is already populated with enough big box stores. Frederick needs more areas like Baker Park - and I don't mean an actual park - but, I mean an area attracts a demographic cross-section. Non-residents DO come to Frederick to visit Baker Park and other downtown areas. I can guarantee you that nonresidents will NOT come to Frederick to go to a big box store. And, I truly hate the fact that I have to LEAVE Frederick to do most of my shopping (except for food). Macy's needs competition! I have considered moving out of Frederick because of my frustration. Frederick is still sometimes referred to as "Fredneck." I would rather say I live in Fredneck as opposed to saying I live in the Big Box Store capital of the tri-state area!

Please see my email below.

Best regards,

Betty McMenemy

----Original Message----

From: Cooke, Erica [mailto:ECooke@FrederickCountyMD.gov] On Behalf Of Planning Commission

Sent: Tuesday, March 20, 2012 11:14 AM

To: McMenemy, Betty Cc: ladygolfer0@gmail.com

Subject: RE: Frederick Towne Mall Location

Ms. McMenemy,

The property in which you inquire, is located within the municipal limits of Frederick City and thus, with the city's jurisdiction, not the County's jurisdiction. You will need to direct your questions and comments to the City of Frederick Planning Department and its Planning Commission. Their office is located at 140 W. Patrick Street, Frederick, MD 21701 and contact # is 301-600-1499 or website - http://www.cityoffrederick.com/index.aspx?nid=221

Thank you. Erica Cooke Administrative Assistant ecooke@FrederickCountyMD.gov Community Development Division 30 North Market Street Frederick, MD 21701

Office- 301-600-1153 fax- 301-600-2054

Zoning Information Line- 301-600-2572 Zoning fax- 301-600-2309

----Original Message----

From: Betty.R.McMenemy@uscg.mil [mailto:Betty.R.McMenemy@uscg.mil]

Sent: Monday, March 19, 2012 11:58 AM

To: Planning Commission Cc: ladygolferO@gmail.com

Subject: Frederick Towne Mall Location

Dear Planning Commission Members;

I hope you get this message before the 2:00 meeting today regarding the evolution of the Golden Mile - particularly the Frederick Towne Mall.

It is my understanding that the mall owners and the local community groups have differing views on the future development of this space.

Mall owners will ALWAYS do what is best for their profits - NOT what is best for the community. A "mixed use" area is ALWAYS going to appeal to more of the population than a single purpose area. It makes sense! The mall owners may "threaten" to sit on their hands and do nothing - presumably to further degrade the area. However, they can't do this forever, they have investors who are expecting a return on their money. The most successful endeavors are ALWAYS those that occur when both community populations and developers are working towards the same end. The Neighborhood Action Councils are interested in COMMUNITY development - the mall owners are interested in developing their bank accounts. Wanting to make a profit is certainly not a problem. It becomes a problem when community needs and wants are subservient to the business practices of those looking only to make a financial gain.

Although I cannot attend the meeting (I work in Washington, DC) I want to voice my opinion as strongly as possible, I want to be heard. And, I want to stand with others who oppose the mall owners getting their wish of commercial zoning - rather than mixed use zoning.

We need to be very concerned about this area that was once vital. It certainly has the potential to be so again. This area must be "a dream" to some developers because so many people live within just a few miles. Again, in order to revive this area it MUST appeal to the broadest demographic possible.

Frederick residents and its governing bodies need to look beyond 90 days to a long term solution that would bring this area back to its former status. I strongly support a "mixed use" zoning for this area.

Best regards,

Betty McMenemy 107 Lavenport Circle Frederick, MD 21701

Matthew Davis

From:

syd@rosemontmanagement.com Tuesday, March 27, 2012 12:38 PM

Sent: To:

Matthew Davis

Cc:

syd@rosemontmanagement.com

Subject:

Fredericktowne Mall rezoning

As owners of the property adjacent to the Fredericktowne Mall, The Waverley Center, 45 Waverley Drive, we received a notice that the owners of the Mall have requested to rezone their property from mixed use to general commercial. We approve and encourage this type of zoning change as we feel it will enhance the entire area along the Golden Mile for use and retail businesses. Please contact us if you would like any additional information.

Sincerely, Syd Fishman, President Fishman Family LLC 301-662-8885

LAW OFFICES

SEVERN, O'CONNOR & KRESSLEIN, P.A.

50 CARROLL CREEK WAY, SUITE 340 FREDERICK, MARYLAND 21701

TELEPHONE 301-682-9840 FAX 301-682-9225

E-MAIL: DSEVERN@FREDERICKLAW.COM

January 17, 2012

Mr. Joseph Adkins Deputy Director of Planning Municipal Annex Building 140 West Patrick Street Frederick, Maryland 21701 HAND-DELIVERED

Re:

2012 City Comprehensive Rezoning Fredericktown Mall Property; 1301 West Patrick Street Tax Map 0411, Parcel 1606

Dear Joe:

This office represents DLC Management, ("DLC") the authorized agent and redevelopment manager for Fredericktowne Mall Associates, LLC ("FTM Associates"), the owner of the above-captioned Fredericktowne Mall property ("Mall Property") containing 39.38 acres (See: attached exhibit). The Mall Property is currently zoned Mixed Use (MU) under the 2005 City of Frederick Zoning District Map ("Zoning Map"). Under the current City of Frederick Comprehensive Plan Map ("Comprehensive Plan"), the Mall Property is designated Mixed Use within the Golden Mile/Route 40 Corridor. On behalf of FTM Associates, and in order to feasibly re-develop the Mall Property, DLC hereby respectfully requests the Mayor and Board of Aldermen to change the zoning on the Mall Property to General Commercial and, if applicable, the land use designation to Commercial General (Retail-General).

The Mall Property was zoned for general commercial/shopping center/retail development for many years (until changed to MU in 2005 at the request of FTM Associates' prior development manager). The current MU zoning allows retail and shopping centers, so the requested rezoning to General Commercial is **not** inconsistent with the MU land use designation on the Comprehensive Plan. Both zones would legally allow redevelopment of the Mall Property as a shopping center. However, the MU zoning **mandates** that a portion of the Mall Property redevelopment contain a mixture of residential and other land uses besides retail/commercial. Given the legal and physical restraints to its redevelopment with Boscov's, Home Depot and Ollie's, the Mall Property <u>cannot</u> and <u>will not</u> be redeveloped as mixed use. It

Mr. Joseph Adkins Deputy Director of Planning January 17, 2012 Page 2

<u>can</u>, and <u>will soon</u> be, developed <u>if rezoned</u> to General Commercial as part of this Comprehensive Rezoning process.

Some of the legal impediments to the redevelopment of the Mall Property include visual and use restrictions under Boscov's long-term lease (e.g., the area between Boscov's and Route 40), Ollie's long-term lease and Home Depot's separate lot ownership (which includes the one-story retail building known as 51 N. McCain Drive). Because they are leased or separately owned, not all of the existing buildings on the Mall Property can be razed so that redevelopment can start with an open and empty site. There is no room on site, nor is there any market for a residential component to the Mall Property. It cannot be redeveloped as a "life style center" under market financing conditions.

However, the Mall Property can be redeveloped in a manner that can accomplish many of the goals and objectives of the Comprehensive Plan and the Golden Mile Small Area Plan, such as an inter-parcel connection to approximately parallel Route 40, improvements to Rock Creek, significant landscaping to help "break up" the parking area facing Route 40, a commuter bus stop, pedestrian amenities and road improvements.

DLC maintains that as the largest parcel on the Golden Mile, the successful redevelopment of the Mall Property is critical to the viability of the Golden Mile Area Plan and the regeneration of this area as the epicenter of the City's retail and commercial services. The rezoning to GC and redevelopment of the Mall Property will have substantial economic benefits for not only the Golden Mile corridor and its environs, but also the entire City. The redevelopment of the Mall Property will provide additional employment opportunities for City residents and have direct and indirect economic benefits for other businesses located on the Golden Mile.

FTM Associates and DLC are committed to the economic redevelopment of the Mall property and the Golden Mile. Rezoning the Mall Property General Commercial as requested will provide FTM Associates the opportunity to begin this revitalization as soon as the new Zoning Map goes into effect.

Please file this request with the official record of the 2012 Comprehensive Rezoning for consideration by the Planning Staff, Planning Commission and the Mayor and Board of Alderman. Thank you for your time and attention to this matter.

Very truly yours,

SEVERN, O'COMOR & KRESSLEIN, P.A.

David A. Severni

Mr. Joseph Adkins Deputy Director of Planning January 17, 2012 Page 3

Enclosure

ce:

The Honorable Randy McClement, Mayor, City of Frederick

Mr. Josh Russin, Executive Assistant to the Mayor Mr. Richard Griffin, Director of Economic Development

Golden Mile Alliance Mr. Stephen Ifshin

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

607 Rosemont Avenue

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-166ZMA

PROPERTY OWNER:

Hood College

ADDRESS:

401 Rosemont Avenue

Frederick, Maryland 21701

APPLICANT: ADDRESS: Andrew DiPasquale, Miles & Stockbridge

30 West Patrick Street, Suite 600

Frederick, MD 21701

PHONE NUMBER:

301-633-3131

PROPERTY

LOCATION:

North side of Rosemont Avenue, immediately north of

Ferndale Avenue

REVIEWED BY:

M. Davis

DATE:

3/28/12

EXHIBITS:

Owner Request, Vicinity Map, Applicable Sections from

the Land Management Code

PROJECT PROPOSAL

Request is to place the IST (Institutional) Floating Zone on the property

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation	Moderate Density
2010 Comprehensive Plan Designation	Low Density
2004 Zoning District	R3 (Residential)
2012 Zoning District	R6 (Residential
Property Owner's Request	IST (Institutional) Floating Zone
Current Use	vacant residential dwelling

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The subject property is 0.79 acre in size and is developed with a single-family dwelling. Ferndale Avenue abuts the property to the east. Other lands owned by Hood College and zoned IST lie to the east and north of the property. Parking and various facilities for the college are located here. Immediately to the north and west across Rosemont Avenue are single-family homes zoned R6.

Section 306 (g)(4) of the Land Management Code (LMC), states the criteria for approving a floating zone if the applicant has met the requirements of the particular floating zone.

The purpose of the IST zone is stated as:

Purpose and findings: this district establishes a flexible procedure and standards for siting large-scale institutional uses, such as conference centers, places of worship, schools, meeting halls, museums, public safety facilities, and government administrative offices. The City finds and determines that:

- these uses provide important services for the general public, and
- these uses can generate significant traffic volumes, consume large areas of land for parking and related facilities, and create similar adverse impacts on surrounding neighborhoods; and
- the unique demands of these facilities require flexibility and case by case review in crafting suitable development standards. Many of these uses are permitted in a base zoning district, but often require flexibility in design or scale that is not available in a base zoning district.

Accordingly, this section establishes a district whereby the City can approve the siting of these facilities, while providing discretionary review to avoid or mitigate impacts on surrounding neighborhoods.

The use (single-family residence) on this site does not meet the intent of the IST zone. The applicant must present a sketch plan as part of the rezoning request that would facilitate a use as permitted by the LMC. Placing the IST Floating Zone on the property would make residential use of the existing structure non-conforming.

INSTITUTIONAL FLOATING ZONE (IST) Sec. 409

Purpose and findings: this district establishes a flexible procedure and standards for siting large-scale institutional uses, such as conference centers, places of worship, schools, meeting halls, museums, public safety facilities, and government administrative offices. The City finds and determines that:

- these uses provide important services for the general public, and
- these uses can generate significant traffic volumes, consume large areas of land for parking and related facilities, and create similar adverse impacts on surrounding neighborhoods; and
- the unique demands of these facilities require flexibility and case by case review in crafting suitable development standards. Many of these uses are permitted in a base zoning district, but often require flexibility in design or scale that is not available in a base zoning district.

Accordingly, this section establishes a district whereby the City can approve the siting of these facilities, while providing discretionary review to avoid or mitigate impacts on surrounding neighborhoods.

Permitted Uses (a)

The uses listed in Table 404-1 are permitted in the "IST" District.

Procedures (b)

A sketch plan (see §309) is required for uses permitted in the "IST" District, unless the proposed use is exempt from site plan review by state or federal law. The sketch plan may be submitted concurrent with an application for rezoning. However, the Board of Aldermen, with a recommendation of the Planning Commission, may attach conditions to the approval of the district subject to a development agreement. In lieu of the application submittal requirements specified in Article 3, §309 and Article 11, the applicant for rezoning to an "IST" District shall address each of the review criteria of this section in their application materials. If the "IST" district is approved, the applicant must then file a site plan as set out in §309.

(c) Standards and Review Criteria

⁶(1) Review Criteria for Rezoning - Designated Public Uses

In reviewing an application for a proposed "IST" District, the Planning Commission and Board of Aldermen shall consider the following where indicated by Table 409-1 ("Yes" in the second column):

- A. consideration of possible alternative sites for the facility in other jurisdictions_to see if a better location would be appropriate, and
- B. an analysis of the extent to which the proposed facility is of a citywide, countywide, regional or state-wide nature, and
- C. whether uniformity among jurisdictions should be considered.
- D. whether the financial impact upon the City of Frederick can be reduced or avoided by an intergovernmental agreement.

(2) Measures to Facilitate Siting

The Planning Commission and Board of Aldermen shall analyze the following factors when considering the location, design and any conditions of approval for the facility:

- A. the availability of land; and
- B. access to transportation; and
- compatibility with neighboring uses; and
- D. the impact on the physical environment.

7(d) Development Standards

Uses within the "IST" District are not subject to the dimensional standards of §405. However, such uses are subject to:

- (1) the development standards in Articles 6 and 7 of this Code; and
- (2) the performance standards established in §407 of this Article.

Table 409-1 Permitted Uses in "IST" District

ermitted Uses	Interjurisdictional Analysis Required? (see subsection (c)(1)	LBCS Function Code	LBCS Structure Code	NAICS Code
1 1 and Special Events Center	No	5310		
Fairgrounds/Agricultural and Special Events Center	No	6400- 6430	4500- 4530	92216
Fire, sheriff, and emergency services	Yes	6200		92
Government offices or other governmental civic uses or facilities	Yes	4242	4300	51412
ibraries		1230-	6250	
Nursing Home, Assisted Living Facility, Retirement Community	No	1250	0250	
Maintenance of government buildings and grounds, including equipment storage	Yes	2450		561210
equipment storage Open space, park or active recreational uses operated on a non- commercial basis	No		5500	712190
Post office	No	6310		491
The section contars	Yes	5380	3200	71312
Schools, academic, continuance, alternative, adult, colleges and universities, and technical, trade, and other specialty schools	No	6124 6140	4220	ļ <u>.</u>
Gas or electric generation distribution facilities, compressor stations, or substations	Yes	4310	6460	2211
	No	6600		11.
Places of Worship	Yes		6430 6434	<u> </u>
Power generation plants	Yes	245	<u> </u>	561210
Public utility storage and service yards	Yes	423	1 6510	5131
Radio / Television Station With Transmitter Tower	No	423	1	
Radio and TV stations and studios with no tower transmissions Sewage treatment plant, pump stations, or lift stations	Yes	434	6300 631 6350 6350	22132
Solid waste collection centers, solid waste transfer stations, recyclable materials, yard waste and similar items	Yes	434		56211 56211
gration towers	Yes	42	30 650	5133
Water supply facilities including pump stations, dams, levees, culverts, water tanks, wells, treatment plants, reservoirs, and other irrigation facilities	Yes		620 620	

MILES & STOCKBRIDGE P.C.

Andrew C. DiPasquale, Esquire 301.698.2318 adipasquale@milesstockbridge.com

February 17, 2012

VIA EMAIL & HAND-DELIVERY

Mr. Joe Adkins, Deputy Director Department of Planning and Zoning City Municipal Annex 140 West Patrick Street Frederick, Maryland 21701

Re: Comprehensive Rezoning Request - Hood College of Frederick, Maryland

• 607 Rosemont Avenue Property

Dear Joe,

I am writing on behalf of Hood College of Frederick, Maryland, the owner of the property situated at 607 Rosemont Avenue, in the City of Frederick, as shown on Tax Map 413, Parcel 958 (Tax ID#02-104555).

Formal request is hereby made that the IST, Institutional Zone be placed upon the above-described property, currently base-zoned R6, Residential, as necessary to better reflect its intended function as part of the existing campus of Hood College.

In keeping with our brief telephone conversation of earlier today, please note that we intend to supplement this letter with additional supportive materials in the very near term. In the interim, please let me know if there is any additional information you might require in connection with this request. As always, many thanks for your assistance.

Very truly yours,

Andrew C. DiPasquale

cc: Charles G. Mann, Vice President for Finance and Treasurer (via email: mann@hood.edu)

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

1

NAME OF PROJECT:

356 Park Avenue

512 Elm Street

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-167ZMA

PC12-168ZMA

PROPERTY OWNER:

Katie House

ADDRESS:

356 Park Avenue

Frederick, MD 21701

Tim and Christina Stevenson

512 Elm Street

Frederick, MD 21701

APPLICANT:

same

ADDRESS:

same

PHONE NUMBER:

PROPERTY

LOCATION:

South side of Park Avenue, across from Frederick

Memorial Hospital

East side of Elm Street, immediately north of Grace Alley

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the properties from DBO (Downtown Business Office) to R8 (Residential)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal. Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation

2010 Comprehensive Plan Designation

Downtown Mixed Use

Mixed Use

2004 Zoning District DR-B (Downtown Residential

Limited Commercial)

R4 (Medium Density)

2012 Zoning District DBO

Property Owner's Request R16 (Residential)

Current Use both are one half of a two-family unit

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

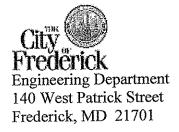
356 Park Avenue is bordered by two-family homes on the east and west and zoned DBO. To the north across Park Avenue is Frederick Memorial Hospital zoned IST. South across Grace Alley are two-family homes zoned R12.

512 Elm Street is bordered on the north and east by two-family homes zoned DBO. To the west across Elm Street and south across Grace Alley are two-family homes zoned R12.

The existing uses on these properties are permitted in the DBO district. Rezoning to R8 would eliminate any potential commercial uses at these locations. The purpose of the DBO district is:

". . . intended for professional and business offices with a limited number of supporting retail commercial activities. High-density residential activities are allowed as well."

DBO is intended as a buffering zone between DB and surrounding residential properties (DR). However this situation is unique in that the surrounding residential zones are R12. The DBO would provide the same buffering to the R12 as to it would in the traditional downtown setting.



April 3, 2012

Mr. Sean Maloney Francis O. Day, Inc. 850 East Gude Drive Rockville, MD 20850

RE: Tuscarora Creek Townhouses Phase 3 Water Main and Storm Sewer Revised Submittals of March 27 and 29

Dear Sean,

The above referenced shop drawings have been approved. Attached are approved copies for your file.

If you have any questions, please call me at (301) 600-1405.

Sincerely,

Janice C. Dorcus Office Manager

jcd

cc: Augie Winterstein w/copies
Ken Sisson w/copies
Tony Norwood w/copies
File Tuscarora Creek Ph 3 w/copies

Attachments

Tim and Christina Stevenson 512 Elm Street Frederick, MD 21701

301-228-2259

February 17, 2012

Joe Adkins
Deputy Director of Planning
Municipal Annex Bldg.
140 West Patrick Street
Frederick, MD 21701
Email: jadkins@cityoffrederick.com

Dear Mr. Adkins:

I respectfully request the rezoning of my property at 512 Elm Street, Frederick Maryland from the current indicated status of Mixed Use on the City of Frederick Comprehensive Land Map, 2010 to Medium Density Residential.

Sincerely,

Tim and Christina Stevenson

Katie House 356 Park Avenue Frederick, MD 21701

February 17, 2012

Mr. Joe Adkins Deputy Director of Planning Municipal Annex Building 140 West Patrick Street Frederick, MD 21701

Re: Frederick City's Comprehensive Rezoning Process

Dear Mr. Adkins,

I respectfully request the rezoning of my property [356 Park Avenue, Frederick, MD 21701] from the current indicated status of Mixed Use on the 2010 City of Frederick Comprehensive Plan Map to Medium Density Residential.

Sincerely,

e Katia Llaissa

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

1705-1707 Rosemont Avenue

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-169ZMA PC12-170ZMA

PROPERTY OWNER:

PR & G Investors, LLC

ADDRESS:

403 Magnolia Avenue

Frederick, Maryland 21701

APPLICANT:

William Holtzinger

ADDRESS:

100 North Court Street

Frederick, MD 21701

PHONE NUMBER:

301-694-4949

PROPERTY

LOCATION:

East side of Rosemont Avenue, north of Lee Place

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property from NC (Neighborhood Commercial) to either MU1 or MU2 (Mixed Use) or RO (Residential Office)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation 2010 Comprehensive Plan Designation	Office Commercial Neighborhood
2004 Zoning District 2012 Zoning District	R3 (Residential) NC (Neighborhood Commercial)
Property Owner's Request	MU (Mixed Use) or RO (Residential Office)
Current Use	vacant

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The subject properties are in one ownership and total 0.46 acres and are developed with a building straddling the property line. The site is bordered on the north and south by lands zoned NC. To the east are single-family homes zoned R6. Across Rosemont Avenue to the west are properties zoned both NC and GC.

Mixed Use zoning is typically reserved for properties larger than these due to design and commercial to residential ratio requirements. It may be beneficial for the applicant to fully explore the uses permitted in the NC zone, as this districts permits many more uses than the requested RO zoning.

Holtzinger WEAVER, P.A.

ATTORNEYS AT LAW

February 16, 2012

Joe Adkins, A.I.C.P. Deputy Director-Planning City of Frederick 140 West Patrick Street Frederick, MD 21701

RE: Rezoning request for 1705 and 1707 Rosemont Avenue

Dear Joe:

Please be advised that I represent PR &G Investors, LLC, which is the owner of the above-referenced properties. These properties are currently zoned Neighborhood Commercial and are Comp Plan designated as Neighborhood Commercial. The owner hereby respectfully requests MU (MU-1, MU-2) zoning or in the Alternative RO zoning as part of the City of Frederick's Comprehensive Rezoning Process. To the extent MU Zoning can be granted, it is the preferred alternative.

These properties were completely renovated within the last four years but unfortunately have been vacant since the renovation was completed. The current zoning simply does not have the flexibility in uses allowed to attract either tenants or a buyer.

Thank you for your attention to and consideration of this matter. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely

William J. Holtzinger

WJH/aj

cc: Pat Muldowney, PR&G Investors, LLC

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

1000-1010 W. 7th Street

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-171ZMA

PROPERTY OWNER:

Various

ADDRESS:

APPLICANT: ADDRESS:

Hargett Condominium Association, Inc. (c/o Bruce Dean)

8 West 3rd Street

Frederick, MD 21701

PHONE NUMBER:

301-620-1175

PROPERTY

LOCATION:

South side of W. 7th Street immediately south of Max

Kehne Park and north of Fairview Avenue

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the properties from R6 (Residential) to RO (Residential Office)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation 2010 Comprehensive Plan Designation	Moderate Density Residential Low Density Residential
2004 Zoning District 2012 Zoning District	R3 (Residential) NC (Neighborhood Commercial)
Property Owner's Request	MU (Mixed Use) or RO (Residential Office)
Current Use	residential duplexes

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The properties are developed with three residential duplex units front West 7th Street. Directly across West 7th Street are commercial properties zoned GC. Immediately to the south across Fairview Avenue is a place of worship zoned IST. To the north is Max Kehne Park and to the west is residential development zoned R6.

A change in zoning from R6 to RO would make the existing residential uses non-conforming as only single-family residential uses are permitted. The RO district permits business and professional offices.

The purposed of the Residential Office district is intended to provide for the option of converting dwellings to professional office uses in predominantly low and medium density residential areas where neither commercial zoning nor high density residential zoning are appropriate, and on sites that because of adjacent commercial activity, heavy vehicular traffic or other similar factors negatively impacting the economic feasibility of residential use of the site.

Matthew Davis

From:

kccolliver@aol.com

Sent:

Monday, April 02, 2012 11:43 AM

To:

Matthew Davis

Subject:

RE: Files #PC12-171/1000-1010 7th Street, Frederick MD 21701

Dear Mr. Davis:

I am writing to protest the Hargett Condo Association attempt to rezone the properties at 1000-1017 7th Street (at the top of my street, Fairview Ave!) to 'residential office.' (See file # pc12-171)

I have lived at 602 Fairview Ave since July of 1998 and am a lifelong resident of Frederick. As long as I can remember, the townhouses in question have been homes---NOT offices nor 'residential offices', nor businesses of any kind. And they should not BE anything but homes.

A change of zoning for these houses is, for starters, inconsistent with Frederick's current 2010 Comprehensive Plan. Allowing this change, after over 50 years, to 'residential office' zoning sets a scary precedent for our neighborhood. First this, and the next thing you know, we'll have commercial development all along the south side of 7th Street, infringing badly on our lovely neighborhood. Traffic would increase, parking for we who live there would become problematic as customers to such commercial businesses would displace us, and the safety and well being of the residents who jog or walk, often with pets or children—would be jeopardized as well.

I have seen many changes in Frederick in my lifetime; it's wonderful for our vibrant city to grow and improve. But this particular change would NOT be a change for the better; quite the contrary. Please plan to preserve our wonderful Hood neighborhood by keeping ALL of our homes here as the homes they were intended to be. There's plenty of room for businesses and lots of office space on the north side of 7th Street—the Hargett Condo Association should look elsewhere! Thank you very much!

Sincerely,

Katherine Colliver 602 Fairview Ave Frederick, MD 21701

Matthew Davis

From:

David McLean <davidrosemclean@yahoo.com>

Sent:

Monday, April 02, 2012 2:37 PM

To:

Matthew Davis

Subject:

David D. McLean and Rose M, McLean, 519 Fairview Ave.-Opposition to Hargett condo's

Association's rezoning application

Matthew B. Davis Division Manager of Comprehensive Planning, City of Frederick

My name is David D. McLean and my wife is Rose M. McLean. We reside at 519 Fairview Avenue and have lived in our home there for 43 years.

We respectfully make the following points in opposition to the Hargett Condo Association's application for rezoning of the townhouses at the corner of Fairview Avenue and Seventh Street.

File # PC12-171, 1000-1010 7th Street, Frederick, MD 21701

- (1.) The Hargett Condo Association's rezoning application is inconsistent with the city's current 2010 Comprehensive Plan.
- (2.) Converting the townhouses, which have been zoned as residential for over 50 years, to residential office would set a precedent of infringing upon our neighborhood and opens the door to further commercial development along the south side of 7th Street.
- (3.) Conversion would surely increase traffic congestion and parking, not to mention pedestrian safety along Fairview Avenue, 7th Street and the alleys running throughout the neighborhood.

David and Rose McLean 519 Fairview Avenue Frederick, MD 21701 (301) 662-6754 (Home Phone)

Matthew Davis

From:

Kim <kmadden0405@comcast.net>

Sent:

Monday, April 02, 2012 6:42 PM

To:

Matthew Davis

Cc:

ed@healthylivingpromo.com

Subject:

File # PC12-171 and the address under review: 1000-1010 7th Street, Frederick 21701

My name is Kimberly Madden. I have resided at 405 Magnolia Avenue for the past 25 years. Rosedale is a quiet, friendly community of real neighbors where my husband and I were fortunate to raise our two children. Our family was able to enjoy the safety and comfort of Rosedale with all the benefits this type of city neighborhood has to offer- walking to school, enjoying the area parks, chatting over lawn mowers and snow shovels- in short, living among friends. Over time we have watched traffic increase on our streets and businesses spring up where pastures and horses had been. Trucks servicing area businesses rumble past, emergency vehicles race by. We have seen nearby houses demolished, and struggle to find parking near our homes on now crowded streets.

I strongly urge the City to deny the application to rezone the property at 1000-1010 7th Street. It is vitally important that we protect the integrity of this neighborhood. There is no urgent need or demonstrable public interest to justify the change being requested. Quite to the contrary, it is critical to the residents of Rosedale that this zoning change be denied.

Changing the zoning of these homes, which have been successfully occupied for over 50 years, to residential office would crumble the boundaries of our neighborhood and set a precedent of infringement that opens door to further commercial development along the south side of 7th Street.

Commercialization of these homes would surely increase both traffic congestion and an already difficult parking situation, not to mention pedestrian safety along Fairview Avenue, 7th Street and the alleys running throughout the neighborhood.

The Hargett Condo Association rezoning application is inconsistent with the city's current 2010 Comprehensive Plan. Please support the citizens and neighbors who live in Rosedale and our wish to preserve this area for our families and future city dwellers.

Thank you for your time and consideration. I hope for a favorable result. Kim Madden



February 16, 2012

Bruce N. Dean 301.620.1175 BDean@Linowes-Law.com

Joe Adkins Deputy Director of Planning Municipal Annex Building 140 W. Patrick Street Frederick, MD 21701

Re:

Request for Residential Office (RO) Zoning 2012 Comprehensive Zoning Process Tax Map 0408, Parcel 0017, 1000 – 1010 West 7th Street (the "Property")

Dear Mr. Adkins:

This firm represents Hargett Condominium Association, Inc. (the "Hargett Condominium" or the "Applicant"), the condominium association for a 6-unit condominium of semi-detached, duplex-style dwelling units located on West 7th Street, adjacent to Hood College and across from the College Park Plaza shopping center. The adopted 2010 City of Frederick Comprehensive Plan Update (the "2010 Comprehensive Plan") map depicts the Property as Low Density Residential (LDR) and the Property is currently zoned R-6. The existing duplex dwelling units are a legal non-conforming use.

The Applicant is requesting the Board of Aldermen to zone the Property to the Residential-Office ("RO") zoning classification as part of the City's 2012 Comprehensive Rezoning Process. According to the Land Management Code, the RO district is intended "to provide for the option of converting dwellings to professional office uses in predominantly low and medium density residential areas where neither commercial zoning nor high density residential zoning are appropriate." The Property comprised of a small number of duplex units situated between Hood College to the south, in the Institutional zone, and a park to the north, with a General Commercial planned and zoned land directly across 7th Street on which are located a shopping complex and a multi-story office building with retail on the ground floor. Perhaps most importantly, Frederick Memorial Hospital is located just east of the Property on 7th Street and it has undergone significant recent and ongoing expansion, adding greatly to the commercial traffic on 7th Street in front of and in the vicinity of the Property.

This commercial traffic and expansion has greatly affected the ongoing residential viability of the Property and makes the requested RO zoning even more appropriate with each passing Joe Adkins February 16, 2012 Page 2

year. This zoning classification would be completely consistent with the recommendations of the 2010 Comprehensive Plan for LDR, as the RO zone is designed and intended to be a transitional zone between existing residential uses and expanding commercial uses, where flexibility is needed due to "adjacent commercial activity, heavy vehicular traffic or other similar factors." Frankly, this description could have been drafted by the City with the neighborhood including and surrounding the Property in mind. See Table 401-1, Land Management Code.

While the RO zone would expand the number of potential permitted uses of the Property to include various types of professional offices, these additional uses would not significantly alter the neighborhood, add excessive traffic, or in any way contradict the intent of the 2010 Comprehensive Plan. As discussed in the 2010 Comprehensive Plan, the potential expansion of Hood College alone "will affect the adjacent neighborhoods along Seventh Street," and as such, the condominium owners desire the ability to respond to these changes at some point in the future when ongoing residential use fronting on 7th Street becomes completely untenable. See the 2010 Comprehensive Plan, p. 22.

For all of these reasons, the Hargett Condominium requests the Board of Aldermen to approve this request for RO zoning on the Property.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact us.

Very truly yours,

LINOWES AND BLOCHER LLP

Bruce N. Dean

cc: Kevin Jackson

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

1606 North Market Street (rear)

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-172ZMA

PROPERTY OWNER:

ADDRESS:

Allen and Cindy Merchant

1606 North Market Street

Frederick, MD 21701

APPLICANT:

ADDRESS:

same

same

PHONE NUMBER:

240-575-4312

PROPERTY

LOCATION:

Rear of property at 1606 North Market Street and fronting

on North East Street, north of East 16th Street

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map.

PROJECT PROPOSAL

Request is to rezone the rear of the property from R6 (Residential) to R16 (Residential)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and Planning Department • 140 W. Patrick St. • Frederick, MD 21701- • 301-600-1499 • Fax 301-600-1837 www.cityoffrederick.com

R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation	Moderate Density Residential
2010 Comprehensive Plan Designation	Low Density Residential
2004 Zoning District	R5 (Residential)
2012 Zoning District	R6 (Residential)
Property Owner's Request	R16 (Residential)
Current Use	single-family front portion of property, undeveloped at the rear

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The rear portion of the property fronts North East Street. Immediately to the east across the street is undeveloped land zoned R16. To the south of the rear portion of the property is a multi-family dwelling which is zoned R6. The front portion of the property contains a single-family residence as does the property to the north.

We request the Planning Commission consider the re-establishment of multi-family zoning of the rear lot of 1606 North Market Street, Frederick, Md. As you know this lot was originally zoned multi-family but was changed without the proper owner notification during the Dougherty administration. When we inquired about the lack of notification we were told it may have been in the water bill?! We feel requesting the return to the former zoning is consistent with the existing multi-family buildings already adjacent to the lot, and also across the street (multiple apartment buildings as well as plan for Odd Fellows property.

Thank you for your consideration.

and & Jenha

Allen and Cindy Merchant

1606 North Market Street

Frederick, Md.

21701

240-575-4312

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

NAME OF PROJECT:

1705 North Market Street

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-173ZMA

PC12-174ZMA

PROPERTY OWNER:

Mid Atlantic Coca-Cola Bottling Co. Inc.

ADDRESS:

P.O. Box 723040 Atlanta, GA 31139

APPLICANT:

Andrew DiPasquale

ADDRESS:

30 West Patrick Street

Frederick, MD 21701

PHONE NUMBER:

301-662-5155

PROPERTY

LOCATION:

West side of North Market Street, across from The Banner

School

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the properties from NC (Neighborhood Commercial) to M1 (Light Industrial)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation 2010 Comprehensive Plan Designation	Neighborhood Commercial/Conservation Commercial Neighborhood
2004 Zoning District 2012 Zoning District	M1 (Light Industrial) NC (Neighborhood Commercial)
Property Owner's Request	M1 (Light Industrial)
Current Use	vacant or under-utilized industrial buildings

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The two parcels total approximately 4.8 acres. Lands zoned R16 are to the east across North Market Street and include undeveloped land and the Banner School. Also to the east on the same side of North Market Street is another NC zoned property and utilized by a tree trimming business. Rose Hill Manor Park surrounds three sides of the property and is zoned IST.

The previous business in the building on the site was industrial in nature. It appears that the NC zoning may have been placed on the property once the industrial used ceased in order to provide a less intensive use and would provide a buffer or transition to the adjacent Rose Hill Manor Park. Care should be taken to minimize impacts and provide adequate buffering/screening between industrial and park uses should the request be approved.

MILES & STOCKBRIDGE P.C.

Andrew C. DiPasquale, Esquire 301.698.2318 adipasquale@milesstockbridge.com

February 17, 2012

<u>VIA EMAIL & HAND-DELIVERY</u>

Mr. Joe Adkins, Deputy Director Department of Planning and Zoning City Municipal Annex 140 West Patrick Street Frederick, Maryland 21701

Re: Comprehensive Rezoning Request - Coca-Cola Enterprises, Inc.

North Market Street Properties

Dear Joe,

I am writing on behalf of Coca-Cola Enterprises, Inc. ("CCE"), the owner of the following parcels of land situated on North Market Street in the City of Frederick:

- Parcel 1159D on Tax Map 409, containing 1.36 +/- acres
 [Tax ID: 02-030616]
- Parcel 1160D on Tax Map 409, consisting of 3.496 +/- acres
 [Tax ID: 02-046091]

Formal request is hereby made that the above described parcels of land be rezoned from NC, Neighborhood Commercial to M1, Light Industrial, as part of the City's Comprehensive Rezoning Process.

In keeping with our brief telephone conversation of earlier today, please note that we intend to supplement this letter with additional supportive materials in the very near term. In the interim, please let me know if there is any additional information you might require in connection with this request. As always, many thanks for your assistance.

Very truly yours,

Andrew C. DiPasquale

cc: Jeffrey W. Guild, Esquire (via email: jguild@millermartin.com)

Client Documents:4851-7794-1774v1|000001-000000|2/17/2012

30 West Patrick Street, Suite 600, Frederick, MD 21701-6903 • 301.662.5155 • Fax: 301.662.3647 • www.milesstockbridge.com

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

104 West 9th Street

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-175ZMA

PROPERTY OWNER:

James and Corinne Bradac

ADDRESS:

10739 Easterday Road

Myersville, MD 21773

APPLICANT:

same

ADDRESS:

same

PHONE NUMBER:

301-662-7220

PROPERTY

LOCATION:

South side of West 9th Street, east of Motter Avenue

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the properties from R8 (Residential) to RO (Residential Office)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and

R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation	Moderate Density Residential
2010 Comprehensive Plan Designation	Residential Office

esidential)
esidential)

Property Owner's Request	RO (Residential Office)
Property Owner's Request	110 (1100111111111111111111111111111111

Current Use	single-family home
Carem Osc	•

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

This property is adjacent to R8 zoned properties developed with single-family homes on its north, east and west sides. To the south is a parcel zoned MU2 (Mixed Use). Currently it is used as a greenhouse facility. A Mixed Use Master Plan has been approved for the property.

The purposed of the RO zoning district is as follows:

The RO district is intended to provide for the option of converting dwellings to professional office uses in predominantly low and medium density residential areas where neither commercial zoning nor high density residential zoning are appropriate, and on sites that because of adjacent commercial activity, heavy vehicular traffic or other similar factors negatively impacting the economic feasibility of residential use of the site.

January 14, 2012

Deputy Director of Planning Joe Adkins Municipal Annex Building 140 W Patrick Street Frederick MD 21701

Dear Mr. Adkins:

This letter is to request a zoning change from R8 to Residential Office for our property located at 104 W 9th Street. During the 2010 Comprehensive Plan, this property's land use was changed from R8 to Residential Office.

The intended use is owner occupied professional service office and/or residential. There is no intention to expand the basic footprint of the existing structure.

The property number is 02-124351

Yours truly,

James A and Corinne Bradac

10739 Easterday Road

Myersville Md 21773

301-662-7220

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

317 South Jefferson Street

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-176ZMA

PROPERTY OWNER:

Mirmozafary Seyedali c/o Nassim Mir Mozaffari

ADDRESS:

203 Kenridge Road Fairlawn, OH 44333

APPLICANT:

same

ADDRESS:

same

PHONE NUMBER:

240-353-7084

PROPERTY

LOCATION:

North side of South Jefferson Street, west of its intersection

with Braddock Avenue

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property from PB (Professional Business) to NC (Neighborhood Commercial)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and Planning Department • 140 W. Patrick St. • Frederick, MD 21701- • 301-600-1499 • Fax 301-600-1837

R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation 2010 Comprehensive Plan Designation	Neighborhood Commercial Office
2004 Zoning District 2012 Zoning District	B1 (Commercial) PB (Neighborhood Commercial)
Property Owner's Request	NC (Neighborhood Commercial)
Current Use	vacant former restaurant building

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The property is approximately 0.52 acres in size and is developed with a commercial building that was formerly a fast food restaurant with a large parking area. The property is a through lot with frontage on both South Jefferson Street and Braddock Avenue. No access to Braddock Avenue is currently provided. Surrounding uses include land zoned NC to the east and developed with a 7/11 convenience store. Across Jefferson Street to the south and properties zoned both IST and PB with assorted uses including a social club and a mixture of homes and offices in residentially styled buildings. Properties to the west are also zoned PB and are a mix of homes and offices. North of the property and across Braddock Avenue are single-family homes zoned R6.

The purpose of the NC (Neighborhood Commercial) district is to provide for limited retail uses, personal services and offices in freestanding parcels or small shopping centers to serve residential neighborhoods. This district shall only be applied at appropriate locations: to supply the daily retail and service needs of such neighborhoods; compatible with surrounding land uses and zoning districts; conform to the goals, objectives, policies and locational criteria of the Comprehensive Plan; where it will not adversely impact the facilities and services of the City, where it will not set a precedent for the introduction of inappropriate uses into an area; and so as not to encourage non-residential strip development along streets.

The purpose of the PB (Professional Business) zone is to provide land for office, medical office and research and development with retail and service uses as secondary uses only. The intent of this designation is to preserve high quality future office lands primarily for office uses. Secondary uses should serve the businesses and employees in the office area and may include the sales or services such as meals, banks, personal services, day care and business support services. These commercial needs of employment centers should be met in ways that do not substantially increase peak hour traffic.

February 14, 2012

Nassim Mir Mozaffari 203 Kenridge Road Fairlawn, OH 44333

Joe Adkins
Deputy Director of Planning
Municipal Annex Bldg.
140 West Patrick Street
Frederick, MD 21701

Re: Rezoning Request

Dear Mr. Adkins:

We are requesting rezoning for property at location:

317 South Jefferson Street Frederick, MD

Name of property owner is

SEYEDALI MIRMOZAFFARY

Currently the property is zoned PB/Office and we are requesting it to be changed to Commercial Neighborhood or Commercial General.

There is a 7/11 gas station next to this property and the Owl's Club facing the property. There are several other commercial properties, McDonald's and CVS less than half a mile away. Due to its structure the current zoning does not service the clients who are interested in leasing this property. We have contacted Jeff Love and Gabrielle Dunn several times regarding this property and they are aware of the situation.

I am the legal representative of the owner. Please contact me for any additional information. You can reach me by phone 240 353 7084 or by email nassim99@hotmail.com

Thank you for your cooperation.

Sincerely,

Nassim Mir Mozaffari

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

214 Broadway

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-177ZMA

PROPERTY OWNER:

Jeffrey and Gina Weddle

ADDRESS:

602 Wyngate Drive Frederick, Maryland

APPLICANT:

same

ADDRESS:

same

PHONE NUMBER:

301-662-9876

PROPERTY

LOCATION:

East side of Broadway, south of its intersection with East

South Street

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property from DR (Downtown Residential) to GC (General Commercial)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and Planning Department • 140 W. Patrick St. • Frederick, MD 21701- • 301-600-1499 • Fax 301-600-1837 www.cityoffrederick.com

R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation 2010 Comprehensive Plan Designation	High Density High Density
2004 Zoning District 2012 Zoning District	DR (Downtown Residential) DR (Downtown Residential)
Property Owner's Request	GC (General Commercial)
Current Use	Skip's Auto Repair

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The property is utilized by a long-term non-conforming auto repair business. Multi-family buildings and townhomes are adjacent to the site on the north, east and south sides and are zoned DR. To the west, across Broadway is property zoned DB and developed as office use.

Deputy Director of Planning Joe Adkins

Municipal Annex Building

140 W. Patrick St.

Frederick, MD 21701

January 20, 2012

We are requesting a rezoning for our property at 214 Broadway St. in Frederick city also known as Map # 0417, Grid 0006, Parcel 0196A. The property is currently owned by Jeffrey A. and Gina M. Weddle, where we own and operate Skip's Auto Repair, Inc. and have since 1978. We are requesting that said property be changed from a downtown residential zoning to commercial. Thank you for your consideration.

Gina M. Weddle

Skip's Auto Repair, Inc.

Drie M. Wedde

214 Broadway St.

Frederick, MD 21701

301-662-9876

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

NAME OF PROJECT:

13 East 2nd Street

18 East 2nd Street

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-179ZMA

PC12-183ZMA

PROPERTY OWNER:

Larry and Denise Harper 13 East 2nd Street

ADDRESS:

Frederick, MD 21701

Katherine Sellers 18 East 2nd Street Frederick, MD 21701

APPLICANT:

same

ADDRESS:

same

PHONE NUMBER:

PROPERTY

LOCATION:

North side of East 2nd Street, east of its intersection with

North Market Street

South side of East 2nd Street, east of its intersection with

North Market Street

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the properties from DR (Downtown Residential) and DBO (Downtown Business Office) respectively to DB (Downtown Business)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation High Density

Downtown Mixed Use

2010 Comprehensive Plan Designation Mixed Use

2004 Zoning District DB (Downtown

Commercial/Residential)

2012 Zoning District DR (Downtown Residential)

DBO) Downtown Business Office)

*Historic District Overlay

Property Owner's Request DB (Downtown Business)

Current Use residential / office

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

13 East 2nd Street is bordered on all sides by DR zoning and developed residentially. 18 East 2nd Street is bordered on three sides by DBO zoning. To the south is a municipal parking deck and zoned IST.

During the 2005 Comprehensive Rezoning, staff took great care in trying not to change the balance with the downtown zoning districts. During the many workshops that lead up to the adoption (July 2005) of the 2005 Comprehensive Plan Map, this small section of East 2nd Street was discussed at several workshops. The Board of Aldermen finally decided that making the north side of East Second DR and the south side of East Second DBO was the best decision.

The change in the zoning (to DBO and DR) in 2005 was petition by citizens on East Second Street. The property did make their case at the following workshop and then at the last workshop, the citizens of East Second Street came in again to argue their case.

HARPER & ASSOCIATES

Dec. 12, 2011

Joe Adkins Deputy Director of Planning Municipal Annex Bldg. 140 W. Patrick St. Frederick, MD 21701

Dear Mr. Adkins,

I'm writing this letter to request re-zoning of my property at 13 E. 2nd St., Frederick, MD 21701. Back in 2005 the zoning was changed from DB to DBO. I did not attend this meeting because the planning staff had assured me that my neighbor's request for zoning change would not be approved. To my surprise, this was not the case. I'm requesting that this zoning decision be reversed and that my property at 13 E. 2nd St. be zoned back to it's pre-2005 designation DB.

Dense Harger Lan Mayre

Larry Harper & Denise Harper

301-694-8684

13 E. 2nd St.

Frederick, MD 21701

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

115 and 117 East Church Street

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-180ZMA

CASE NOMBER.

PC12-181ZMA

PROPERTY OWNER:

Frederick County Board of Education

ADDRESS:

191 S. East Street Frederick, MD 21701

Board of Commissioners of Frederick County

12 E. Church Street Frederick, MD 21701

APPLICANT:

same

ADDRESS:

same

PHONE NUMBER:

301-696-6850

301-600-1100

PROPERTY

LOCATION:

North side of East Church Street, east of its intersection

with North Market Street

REVIEWED BY:

M. Davis

DATE:

3/28/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the properties by removing the IST (Institutional) Floating Zone and rezoned to DB (Downtown Business)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan

Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation Institutional

2010 Comprehensive Plan Designation Mixed Use (115 E. Church and

Institutional (117 E. Church)

2004 Zoning District DBO

2012 Zoning District IST (Institutional)

Property Owner's Request DB (Downtown Business)

Current Use Administrative

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The owners of both properties intend to cease operations at these locations and market them for sale. The removal of the IST floating zone will make the properties more marketable and more accurately reflect the use. DBO is the current underlying zoning and the applicants seek DB in this request. The purposes of these two districts follow:

The DBO district is intended for professional and business offices with a limited number of supporting retail commercial activities. High-density residential activities are allowed as well.

The DB district is intended to encourage the development of the Center City's commercial areas. It allows most office and retail activities as well as high density residential uses. To encourage the implementation of this objective, certain parking requirements are relaxed for development or redevelopment in this district.

BOARD OF EDUCATION OF FREDERICK COUNTY

191 South East Street Frederick, Maryland 21701

Angie L. Fish President Telephone 301-696-6850 FAX 301-696-6950

January 18, 2012

Mr. Joseph Adkins, Deputy Director for Planning The City of Frederick Planning Department 140 West Patrick Street Frederick, MD. 21201

Re: Comprehensive Rezoning, Board of Education Property at 115 East Church Street

Dear Mr. Adkins:

On behalf of the Board of Education, I respectfully request that the following change be included in the forthcoming Comprehensive Rezoning.

115 East Church Street, former Frederick County Public Schools (FCPS) Headquarters Building, Parcel 333B of Tax Map 414

The 2010 City Comprehensive Plan land use designation is Mixed Use. At present the Institutional floating zoning has been applied to the property consistent with its past use. However, the Board has this property for sale and intends to declare it surplus once a buyer is identified. The Board therefore requests that the Institutional floating zone designation be removed.

In place of the Institutional zone and the underlying base zoning of Downtown Residential (DR), the Board requests that the base zoning be changed to Downtown Business (DB). Although the townhouses to the immediate west are zoned Downtown Business Office (DB-O) the Board believes DB is the better choice for our somewhat unique building. It is a former school that was converted to administrative offices a number of years ago. Its size and layout make it well suited for a variety of beneficial and compatible uses beyond those which DB-O would allow. This fall ARTOMATIC, a local arts organization, used this building as an art gallery and a performance arts venue.

Please send all notices and correspondence concerning the upcoming Comprehensive Rezoning to Ray Barnes, Executive Director of Facilities Services, Frederick County Public Schools, at the address listed above. Please let us know if we can answer any questions or provide you further information on this request.

Sincerely,

Angie L. Fish

President

CC: Theresa Alban, Ph.D., Superintendent of Schools Raymond V. Barnes, Executive Director of Facilities Services



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BOARD OF COUNTY COMMISSIONERS FREDERICK COUNTY, MARYLAND

Winchester Hall • 12 East Church Street • Frederick, Maryland 21701 301-600-1100 • FAX: 301-600-1849 • TTY: Use Maryland Relay Service http://www.frederickcountymd.gov

March 9, 2012

The Honorable Randy A. McClement Mayor, City of Frederick 101 North Market Street Frederick, Maryland 21701

Re: Rezoning of Property at 117 East Church Street

Dear Mayor McClement:

On behalf of the Board of County Commissioners (BOCC) of Frederick County I am requesting the Mayor and Board of Alderman consider for rezoning the County-owned property located at 117 East Church Street. This property will soon be vacated by the County IIT Division as those staff and operations will backfill vacant space at Winchester Hall in our continuing effort to streamline operations and improve efficiencies. This effort has opened up the opportunity to market the soon to be vacant 117 East Church Street property with that of the adjacent Board of Education (BOE) building at 115 East Church Street.

We believe that if both properties are marketed collaboratively it may facilitate a single entity/user to consider occupying or redeveloping the site as a single project. Further, we understand that the BOE property currently has a 'mixed use' land use plan designation and has recently requested DB-Downtown Business zoning on their 115 East Church Street property. To that end, the BOCC respectfully requests the consideration of lifting the Institutional Floating Zone designation from our property at 117 East Church Street and placing a Mixed Use land use plan designation with an accompanying DB-Downtown Business zoning designation on the property.

This action will aide in putting this property back on the tax rolls and provide opportunities to expand redevelopment in the heart of downtown Frederick. Please feel free to contact my office at 301-600-2336 should you have any questions or desire to discuss our request further.

Sincerely,

BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND

By:

Blaine R. Young, President

BRY/ES/ds

pc Board of County Commissioners
Board of Alderman, City of Frederick
Joe Adkins, Deputy Director Planning, City of Frederick
David Dunn, County Manager
Eric Soter, Community Development Division
Joyce Grossnickle, Office of the County Manager

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

320 South Jefferson Street

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-178ZMA

PROPERTY OWNER:

Mirmozafary Seyedali c/o Nassim Mir Mozaffari

ADDRESS:

203 Kenridge Road Fairlawn, OH 44333

APPLICANT:

same

ADDRESS:

same

PHONE NUMBER:

240-353-7084

PROPERTY

LOCATION:

South side of South Jefferson Street, west of its intersection with

Catoctin Avenue

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property from PB (Professional Business) to NC (Neighborhood Commercial)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and

R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION	
2004 Comprehensive Plan Designation 2010 Comprehensive Plan Designation	Office Office
2004 Zoning District 2012 Zoning District	B-0 (Commercial) PB (Neighborhood Commercial)
Property Owner's Request	NC (Neighborhood Commercial)

Current Use Vacant

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The property is improved by a single-family style home. A small parking area has been created at the rear of the lot. PB zoning is adjacent on the north, east and west sides of the property. To the south at the rear of the property are single-family homes zoned R8 and fronting on Adam Road.

The purpose of the NC (Neighborhood Commercial) district is to provide for limited retail uses, personal services and offices in freestanding parcels or small shopping centers to serve residential neighborhoods. This district shall only be applied at appropriate locations: to supply the daily retail and service needs of such neighborhoods; compatible with surrounding land uses and zoning districts; conform to the goals, objectives, policies and locational criteria of the Comprehensive Plan; where it will not adversely impact the facilities and services of the City, where it will not set a precedent for the introduction of inappropriate uses into an area; and so as not to encourage non-residential strip development along streets.

The purpose of the PB (Professional Business) zone is to provide land for office, medical office and research and development with retail and service uses as secondary uses only. The intent of this designation is to preserve high quality future office lands primarily for office uses. Secondary uses should serve the businesses and employees in the office area and may include the sales or services such as meals, banks, personal services, day care and business support services. These commercial needs of employment centers should be met in ways that do not substantially increase peak hour traffic.

February 14, 2012

Nassim Mir Mozaffari 203 Kenridge Road Fairlawn, OH 44333

Joe Adkins
Deputy Director of Planning
Municipal Annex Bldg.
140 West Patrick Street
Frederick, MD 21701

Re: Rezoning Request

Dear Mr. Adkins:

We are requesting rezoning for property at location:

320 South Jefferson Street Frederick, MD

Name of property owner is

SEYEDALI MIRMOZAFFARY

Currently the property is zoned PB/Office and we are requesting it to be changed to Commercial Neighborhood or Commercial General.

I am the legal representative of the owner. Please contact me for any additional information. You can reach me by phone 240 353 7084 or by email nassim99@hotmail.com

Thank you for your cooperation.

Sincerely,

Nassim Mir Mozaffari

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

184 E. South Street

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-182ZMA

PROPERTY OWNER:

Frederick Brick Works, Inc.

ADDRESS:

1731 Monocacy Blvd.

Frederick, MD 21701

APPLICANT:

Linowes and Blocher LLP c/o Bruce Dean

ADDRESS:

8 West 3rd Street

Frederick, Maryland 21701

PHONE NUMBER:

301-620-1175

PROPERTY

LOCATION:

lands bordered by East South Street, South East Street and

Monocacy Boulevard

REVIEWED BY:

M. Davis

DATE:

3/28/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property from M2 (Heavy Industrial) to MU-1 (Mixed Use)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and

R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation 2010 Comprehensive Plan Designation	Institutional Mixed Use (115 E. Church and Institutional (117 E. Church)
2004 Zoning District	M-2 (General Employment) B-3 (General Commercial)
2012 Zoning District	MU1/M2
Property Owner's Request	MU1 (Mixed Use)
Current Use	Industrial

PUBLIC NOTIFICATION

Current Use

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

The Brick Works property is comprised of approximately 56 acres with the portion closest to East Street zoned MU-1 and the remainder zoned M2. This location is identified in the 2010 Comprehensive Plan as well as by the East Frederick Rising vision documents as being a preferable location for mixed use development on the east side of Frederick. The East Frederick area was identified as one that could benefit from a small area plan. While work continues on this effort, the Comprehensive Plan clearly states that this area, including the subject site, would be suitable for a mixture of uses and presents excellent opportunities for new and redevelopment on Frederick's east side.

To the west across East Street is the Maryland School for the Deaf zoned IST as well as a small park and residential development zoned DR. Other properties to the north and east fronting E. South Street are zoned M2 and feature industrial uses. Monocacy Boulevard borders the property to the south.

The LMC states that the purpose of the zoning requested is:

"... intended to provide a planned district that allows for the integration of residential and nonresidential uses, provides for mixed dwelling unit types and housing densities, provides for compatible and complimentary retail, office, and employment uses; provides for greater flexibility than single-use districts through a planned review process that insures safe, efficient, convenient, harmonious groupings of structures, uses, facilities, and support uses; and provides for the appropriate relationships of space, inside and outside buildings."

New development projects in the MU district require a Master Plan to be approved as part of the review process. A mixture of commercial and residential is required, with neither to exceed 85% nor be less than 15% of the total project. Additionally, there are design elements in the MU District that dictate how buildings are oriented, setbacks, pedestrian amenities, sidewalk and parking location requirements and are found in Section 417 of the LMC.



February 16, 2012

Bruce N. Dean 301.620.1175 BDean@Linowes-Law.com

Joe Adkins
Deputy Director of Planning
Municipal Annex Building
140 W. Patrick Street
Frederick, MD 21701

Re:

Request for Mixed Use (MU-1) Zoning 2012 Comprehensive Zoning Process Tax Map 0418, Parcels 0889 (Parcel 1) and 0962 (Parcel 2), located at 184 East South Street (collectively, the "Property")

Dear Mr. Adkins:

This firm represents Frederick Brick Works, Inc. ("Frederick Brick Works" or the "Applicant"), the owner of two (2) parcels of land, containing 30.55 acres (Parcel 1, above) and 25.51 acres (Parcel 2, above) located on both sides of South East Street at its new intersection with South Street and running south to the new Monocacy Boulevard intersection with South East Street. An Exhibit Map showing the adopted 2010 City of Frederick Comprehensive Plan (the "2010 Comprehensive Plan") shows that the entire 56 acre Property, and its adjacent neighboring properties along South Street, are all designated by the 2010 Comprehensive Plan for Mixed-Use (MU) development. This area is designated on the 2010 Comprehensive Plan map enclosed with this letter as the "Site".

Also enclosed with this letter is an Exhibit entitled "East Street Properties" prepared for the Applicant by Rodgers Consulting (the "Exhibit"). The Exhibit shows the zoning for the Site as being a combination of MU1 (Mixed Use) and M2 (Heavy Industrial). Obviously, the Mixed Use or MU-1 zone is consistent with the land use recommendations of the adopted 2010 Comprehensive Plan and no change in that MU1 zoning is requested. The MU-1 zone makes good planning sense in that the properties located along South Street, near the recently improved and improving East Street corridor, will be a part of the revitalization of the area of the City of Frederick included in the "East Frederick Rising" planning area.

Joe Adkins February 16, 2012 Page 2

However, we believe that the MU-1 zone is appropriate for the entire area shown on the 2010 Comprehensive Plan map as the Site, including those currently zoned M2. The M2 zone is inconsistent with both the 2010 Comprehensive Plan and the East Frederick Rising planning documents. This would include that portion of Parcel 1 and Parcel 2 currently zoned M2, but would also include those Mixed-Use planned properties which are adjacent to Parcel 1 and Parcel 2 but not owned by Frederick Brick Works. Because this neighborhood should properly be all zoned MU1, the Applicant asks the Board of Aldermen to consider zoning the Property, as well as the entire Site (which includes the properties designated on the Exhibit as parcels A, B, C, D, F and Aj, as shown on the Exhibit), as MU1, and removing the M2 zoning classification from all of these properties. This would be in conformance with the 2010 Comprehensive Plan, the East Frederick Rising Planning documents, but would also create no non-conformities for any of the properties included in this area, all of which are the home of current uses that are permitted in the MU1 zoning district.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact us.

Very truly yours,

LINOWES AND BLOCHER LLP

Bruce N. Dean

Enclosures

ce: Clayton Minnick

Brigg Bunker Mark Friis

**L&B 1740918v2/11991.0002

CITY OF FREDERICK PLANNING COMMISSION PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

Baughman's Lane - Cawley

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-184ZMA

PROPERTY OWNER:

Cawley Investment, LLC

ADDRESS:

6363 Claridge Drive North

Frederick, Maryland 21701

APPLICANT:

ADDRESS:

same

PHONE NUMBER:

301-301-0059

PROPERTY

LOCATION:

South side of Baughman's Lane adjacent to Independent

Hose Company

REVIEWED BY:

M. Davis

DATE:

3/28/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to rezone the property from R4 (Low Density Residential) to R12 (Medium Density Residential)

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4....to R4, R6, R8 and Planning Department • 140 W. Patrick St. • Frederick, MD 21701- • 301-600-1499 • Fax 301-600-1837

R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

BACKGROUND INFORMATION

2004 Comprehensive Plan Designation	Moderate Density Residential
2010 Comprehensive Plan Designation	Medium Density Residential
2004 Zoning District	R2 (Low Density Residential)
2012 Zoning District	R4 (Low Density Residential)
Property Owner's Request	R12 (Medium Density Residential)
Current Use	Residential

PUBLIC NOTIFICATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

This 1.38 acre parcel is currently undeveloped. To the north and west the property is bordered by lands zoned R12 and developed by townhouses in the Carroll Park Manor subdivision. The eastern and southern sides of the property are bordered by single-family homes located in the Rock Creek Estates subdivision and zoned R4.

The R4 District only permits single-family homes on minimum 8,000 square foot lots. The R12 District would permit single and two family, duplex, townhouses and multifamily dwellings up to a maximum density of 12 units per acre.

A subdivision plat for this property was approved previously but never recorded. The plat featured five lots to be developed with single-family homes.

In the LMC, there are two medium density residential zoning districts the R8 and the R12.

Cawley Investment, LLC

6363 Claridge Drive North Frederick, Maryland 21701 301-788-0059

January 6, 2012

Mr. Joseph Adkins
Deputy Director of Planning
Municipal Annex Building
140 West Patrick Street
Frederick, Maryland 21701

RE:

2010 Comprehensive Plan Rezoning Request

1.38 acres located on Baughman's Lane, Frederick, Maryland Account Number – District 02 – Account Number 237695

Map - 0407 - Grid - 0006 - Parcel - 1843

Property Owner Name:

Cawley Investment, LLC

Address of Property:

Approximately 300 Baughman's Lane

2010 Comprehensive Plan Land Use: Medium Density

Requested Zoning Classification:

R-12

Dear Joe:

We respectfully request that the above referenced parcel be rezoned to make it compatible with the medium density land use designation within the 2010 Comprehensive Plan. Medium density residential land adjoining and directly across Baughman's Lane is zoned R-12 and we request that same zoning for this property.

I have attached the MDAT account information, tax plat and Comprehensive Plan for this parcel.

Thank you for your consideration of this request.

Sincerely,

Kevin Cawley

Managing Member

CITY OF FREDERICK PLANNING COMMISSION

PROJECT STAFF REPORT

April 9, 2012

PROJECT INFORMATION

AGENDA ITEM:

I

NAME OF PROJECT:

North Market Revitalization/Hope VI

TYPE OF PROJECT:

Rezoning

CASE NUMBER:

PC12-185ZMA

PROPERTY OWNER:

Nexus Energy Homes

ADDRESS:

1000 Island Professional Park

Stevensville, MD 21666

APPLICANT:

same

ADDRESS:

same

PHONE NUMBER:

410-604-2870

PROPERTY

LOCATION:

North Market Revitalization/Hope VI Project located on

the east side of North Bentz Street and south of East 7th

Street

REVIEWED BY:

M. Davis

DATE:

3/30/12

EXHIBITS:

Owner Request, Vicinity Map

PROJECT PROPOSAL

Request is to remove the Historic District Overlay zone from the project

HISTORY

This is a limited rezoning and is a result of the 2005 rezoning process. In 2005, staff prepared a zoning map that matched the recently approved 2004 Comprehensive Plan Land Use map. The City mailed out over 14,000 post cards, placement in water bills, emailed to various groups, posted on the website and had several newspaper articles.

During the 2005 Comprehensive Rezoning every property was given a new classification for instance the residential zonings changed from R1, R2, R3, R4...to R4, R6, R8 and R12. Despite the extensive notification efforts, property owners publically stated that they were unaware of the process that was being undertaken.

At the various Mayor and Board of Aldermen Workshops, over 150 requests were made not to change the zoning classification. Many of the changes of zoning would have resulted in the existing business becoming non-conforming. Most of these requests were granted.

After the 2010 Comprehensive Plan was adopted, there were some concerns that the Board of County Commissioners had objections to the City's Comprehensive Plan, particularly the Tier 3 designation. The City postponed the rezoning process until that issue was resolved.

Once the rezoning process started, staff was only to consider requests that match the land use classifications of the 2010 Comprehensive Plan. Under advice from our Legal Department and following the lead of Frederick County, the City opened the process to any request.

2004 Comprehensive Plan Designation	Mixed Use/High Density
2010 Comprehensive Plan Designation	Mixed Use/High Density
2004 Zoning District	DB (Downtown Commercial/Residential) and DR (Downtown Residential)
2012 Zoning District	DR (Downtown Residential)

*Historic District Overlay

Property Owner's Request remove Historic District Overlay

Current Use residential development

PUBLIC NOTIFICATION

BACKGROUND INFORMATION

As required by the LMC, the news ad for this rezoning ran in the Frederick News Post on News Post on March 23, 21012 and March 30, 2012.

The properties were posted by March 25th. Staff has received verification of all postings and has issued replacement signs when necessary.

The letter to adjacent property owners was mailed on March 23, 2012 that included all the dates of the public meetings.

STAFF COMMENTS & ANALYSIS

This project area falls within the Frederick Town Historic District. It is unclear when the entire project area received the overlay.

A goal of the 2010 Comprehensive Plan is to encourage the expansion of the local historic district to match the boundaries of the National Register Historic District. Removing this large area from the local district will make that goal more difficult to obtain. The Comprehensive Plan also states ". . . redevelopment plans should be reviewed to ensure the retention of historic buildings and features that contribute to and complement the Historic District.

This project has garnered several awards, no doubt in large part due to the energy efficiency of the new homes. Staff would suggest however, that Historic District Commission review and design approvals also helped create an attractive and desirable product in a very difficult housing market.

Matthew Davis

From:

Jen Swafford <jkswafford@comcast.net>

Sent:

Monday, April 02, 2012 8:35 PM

To:

Susan Harding; Kelly Russell; Shelley Aloi; Carol Krimm; Michael OConnor; Karen Young;

Matthew Davis

Subject:

HOPE VI

To whom it may concern,

My husband and I recently received a letter stating that Nexus Homes/HOPE VI is requesting to be removed from the Historic District Overlay. We feel strongly that this request should NOT be granted.

We own two properties in the Historic District that we have painstakingly renovated. We also own a small renovation business focused primarily in the Historic District and we are very familiar with the HPC process. While it can be trying at times to complete this process the HPC has made great strides over the last few years to ease this process for home owners in the Historic District. It is our understanding that HOPE VI/Nexus Homes has received approval for all of the remaining properties with proposed "green" solutions and we have read several articles in which Nexus states that their homes are selling very quickly above typical market rates. The developer also entered into the agreement to develop these homes knowing that they were part of the Historic District Overlay. Therefore we question the request.

This area was added to the Historic District Overlay as part of the HOPE VI Grant in which millions of federal and local tax dollars were leveraged by developers in partnership with the City to revitalize this area. We would ask that City staff research this agreement (possibly Resolution 02-41), as it outlines the promises the surrounding neighbors were made as part of this project. We also ask that the Planning Commission consider the precedent we are setting as we allow any in-fill communities to exempt themselves from the Historic District Overlay. We believe that the Historic District Overlay is a very influential factor in the charm of the City of Frederick and while this area is new "green" construction, the HPC guidelines are what help it blend well with the existing fabric of our community. If we remove these guidelines it will allow this area to use inferior and non conforming treatments to their homes. We are so close to completing a dream that started so many years ago, why would we alter it now?

I am also a NAC coordinator for the City of Frederick and the HPC guidelines along with code enforcement are one of the very few tools we have in our arsenal when we start to have issues with properties in our neighborhoods.

We truly wish that we had time to review the hours of testimony and binders worth of documentation that is the history of this area, but frankly with two full time jobs, two small children, we don't have time anymore to fight to keep our community from deteriorating. We are starting to see way too often neighbors having to take so much of their personal time and resources to fight against entities who are paid, have unlimited resources, lawyers, and understand all too well the loopholes in the system. Please do not give us another reason to give up the fight and move from the city and rent our home.

Jen and Jayson Swafford 230, 5&7 W 5th Street



1000 Island Professional Park, Stevensville, MD 21666 * T: 410-604-2870 * F: 410-604-2871 * E: mfo géneral some gylandes com

February 17, 2012

Joe Adkins Deputy Director of Planning The City of Frederick 140 West Patrick St. Frederick, MD 21701

Re: De-Annexation of Portions of the North Market Revitalization or Hope VI Project.

Dear Mr. Adkins,

On June 14, 2009, Nexus EnergyHomes, Inc. (NEH) entered into a Homeowner Development Agreement with the Housing Authority of the City of Frederick (HCAF) to construct the market rate units for fifty five (55) lots within the North Market Revitalization or Hope VI Project in the vicinity of N. Bentz and W. Seventh Streets. With this letter NEH, along with the HCAF, respectfully requests to have the below described and depicted areas of the Hope VI Project de-annexed and removed from the Historic District Overlay Zone via the City's Comprehensive Plan Update.

Please see outlined areas on the attached Frederick Town Historic District Overlay maps and the Building Location / Overall Site Plan. Also included is a table of the individual properties within the proposed de-annexation area.

Thank you in advance for your consideration of this request. Please feel free to contact me if you have any questions or need additional information.

Respectfully,

V. Paul Zanecki-President/CEO

Enclosures